1-22-87
Vol. 52 No. 14
Pages 2389-2502

# Federal Register

Thursday
January 22, 1987

**Briefings on How To Use the Federal Register—**
For information on briefings in Washington, DC, Portland, OR, Los Angeles, CA, and San Diego, CA, see announcement on the inside cover of this issue.

**FEDERAL REGISTER** Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

**How To Cite This Publication:** Use the volume number and the page number Example: 52 FR 12345.

## THE FEDERAL REGISTER
## WHAT IT IS AND HOW TO USE IT

**FOR:** Any person who uses the Federal Register and Code of Federal Regulations.

**WHO:** The Office of the Federal Register.

**WHAT:** Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

**WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

**WHEN:** January 29; at 9 am.

**WHERE:** Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

**RESERVATIONS:** Mildred Isler 202–523–3517

### PORTLAND, OR

**WHEN:** February 17; at 9 am.

**WHERE:** Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.

**RESERVATIONS:** Call the Portland Federal Information Center on the following local numbers:

Portland 503–221–2222
Seattle 206–442–0570
Tacoma 206–383–5230

### LOS ANGELES, CA

**WHEN:** February 18; at 1:30 pm.

**WHERE:** Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.

**RESERVATIONS:** Call the Los Angeles Federal Information Center, 213–894–3800

### SAN DIEGO, CA

**WHEN:** February 20; at 9 am.

**WHERE:** Room 2S31, Federal Building, 880 Front Street, San Diego, CA.

**RESERVATIONS:** Call the San Diego Federal Information Center, 619–293–6030

# Contents

Federal Register
Vol. 52, No. 14
Thursday, January 22, 1987

**Agriculture Department**
*See* Commodity Credit Corporation; Food Safety and Inspection Service; Rural Electrification Administration; Soil Conservation Service

**Army Department**
*See* Engineers Corps

**Arts and Humanities, National Foundation**
*See* National Foundation on the Arts and Humanities

**Census Bureau**
NOTICES
Committees; establishment, renewals, terminations, etc.:
American Economic Association Advisory Committee et al., 2436

**Commerce Department**
*See* Census Bureau; International Trade Administration; National Oceanic and Atmospheric Administration

**Commodity Credit Corporation**
RULES
Interest on delinquent debts:
Referral of delinquent debts to IRS for tax refund offset, 2393

**Copyright Royalty Tribunal**
NOTICES
Meetings; Sunshine Act, 2475

**Customs Service**
PROPOSED RULES
Air commerce:
Cuba, aircraft arriving from or departing for; entry and clearance, 2418
Financial and accounting procedure:
Periodic payment of duties by commercial importers, 2419

**Defense Department**
*See* Engineers Corps

**Economic Regulatory Administration**
NOTICES
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
Virginia Electric Power Co., 2438

**Education Department**
*See* National Council on the Handicapped

**Energy Department**
*See also* Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Tuba City, AZ, 2437

**Energy Information Administration**
NOTICES
Natural gas, high cost; alternative fuel price ceilings and incremental price threshold, 2438

**Engineers Corps**
NOTICES
Environmental statements; availability, etc.:
White River Entrance Channel Project, AR, 2436

**Environmental Protection Agency**
PROPOSED RULES
Hazardous waste:
Identification and listing—
Land disposal restrictions, 2423
Pesticide programs:
Federal Insecticide, Fungicide, and Rodenticide Act, etc.; fees for certain activities, 2423
Superfund program:
National oil and hazardous substances contingency program—
National priorities list update, 2492
Water pollution; effluent guidelines for point source categories:
Nonferrous metals manufacturing, 2480
NOTICES
Pesticides; emergency exemption applications:
ASSERT, 2440, 2441
(2 documents)

**Executive Office of the President**
*See* Presidential Documents; Trade Representative, Office of United States

**Federal Communications Commission**
RULES
Common carrier services:
Access charge and divestiture related tariffs; unbundling of special access inside wiring rates, 2411

**Federal Deposit Insurance Corporation**
NOTICES
Meetings; Sunshine Act, 2475

**Federal Election Commission**
PROPOSED RULES
Bank loans to candidates and political committees, 2416
NOTICES
Meetings; Sunshine Act, 2475

**Federal Energy Regulatory Commission**
RULES
Natural Gas Policy Act:
Ceiling prices for high cost natural gas produced from tight formations—
Texas, 2401
NOTICES
Environmental statements; availability, etc.:
Electric Consumers Protection Act, Section 8(d) study, 2440

**Federal Highway Administration**
NOTICES
Environmental statements; notice of intent:
Spokane County, WA, 2473

**Federal Home Loan Bank Board**
NOTICES
*Applications, hearings, determinations, etc.:*
Citizens Savings Bank, F.S.B., 2442
First Federal Savings & Loan Association of Torrington, 2442
Fulton Federal Savings & Loan Association, 2442
Homestead Savings Association, 2443
Indiana Federal Savings & Loan Association, 2443

**Federal Maritime Commission**
NOTICES
Rulemaking petitions:
International Council of Containership Operators; most favored shipper and liquidated damages clauses, 2443

**Federal Mine Safety and Health Review Commission**
NOTICES
Meetings; Sunshine Act, 2476
(2 documents)

**Federal Reserve System**
RULES
Unfair or deceptive acts or practices (Regulation AA):
Credit practices; exemption applications—
New York, 2398
NOTICES
Meetings; Sunshine Act, 2476
(2 documents)
*Applications, hearings, determinations, etc.:*
Alex Brown Financial Group, 2445
Boemi, A. Andrew, et al., 2446
Chase Manhattan Corp., 2443
Constitution Bancorp of New England, Inc., 2446
F & M National Corp. et al., 2447
Greensberg Deposit Bancorp, Inc., et al., 2448
Huntington Bancshares Inc. et al., 2444
Lane Financial, Inc., et al., 2445
PKBanken et al., 2447
Trustcorp, Inc., et al., 2447
Yoo, James D., et al.; corrections, 2445

**Financial Management Service**
*See* Fiscal Service

**Fiscal Service**
RULES
Federal payments made through financial institutions by automated clearing house method, 2405

**Food Safety and Inspection Service**
PROPOSED RULES
Meat and poultry inspection:
Frankfurters and similar cooked sausages, 2416

**Health and Human Services Department**
*See* Health Care Financing Administration; Health Resources and Services Administration; Human Development Services Office; Public Health Service

**Health Care Financing Administration**
PROPOSED RULES
Medicare:
Health agencies, provider-based home, and hospices; assignment and reassignment to designated regional intermediaries, 2424
Medicare and Medicaid:
Fire safety standards for hospitals, skilled nursing facilities, hospices, etc., 2430

**Health Resources and Services Administration**
NOTICES
Privacy Act; systems of records; correction, 2449

**Human Development Services Office**
NOTICES
Meetings:
President's Committee on Mental Retardation, 2449

**Interior Department**
*See also* Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
National Strategic Materials and Minerals Program Advisory Committee, 2449

**International Trade Administration**
RULES
Export licensing:
Soviet Union; exports of oil and gas equipment, 2500

**International Trade Commission**
NOTICES
Agency information collection activities under OMB review, 2458
(2 documents)
Import investigations:
Bicycle tires and tubes from Korea, 2459
Color picture tubes from Canada, Japan, Korea, and Singapore, 2459
Low-nitrosamine trifluralin herbicides, 2460
Miniature hacksaws, 2460
Preshipment inspection programs and their effect on U.S. commerce, 2461
Tubeless steel disc wheels from Brazil, 2461
Unfinished mirrors from—
West Germany, Italy, Japan, Portugal, and United Kingdom, 2459
Ventilated motorcycle helmets, 2462
Meetings; Sunshine Act, 2476

**Interstate Commerce Commission**
RULES
Motor carriers:
Lease and interchange of vehicles; documents in lieu of rated freight bills, 2412
NOTICES
Agreements under sections 5a and b, applications for approval, etc.:
Michigan Movers & Warehousemen's Association, 2465
Railroad operation, acquisition, construction, etc.:
Boston & Maine Corp., 2463
(2 documents)
Delaware & Hudson Railway Co., 2464
Genesee & Wyoming Industries, Inc., 2464
Louisiana & Delta Railroad, Inc., 2465

Railroad services abandonment:
CSX Transportation, Inc., 2465

**Land Management Bureau**
NOTICES
Oil and gas leases:
Montana, 2450
Survey plat filings:
Idaho, 2450

**Legal Services Corporation**
NOTICES
Meetings; Sunshine Act, 2476, 2477
(4 documents)

**Mine Safety and Health Federal Review Commission**
*See* Federal Mine Safety and Health Review Commission

**Minerals Management Service**
NOTICES
Meetings:
Outer Continental Shelf Advisory Board, 2450
Outer Continental Shelf; development operations coordination:
Pelto Oil Co., 2450
Phillips Petroleum Co., 2451

**National Aeronautics and Space Administration**
NOTICES
Meetings:
Space Systems and Technology Advisory Committee, 2466

**National Council on the Handicapped**
NOTICES
Meetings; Sunshine Act, 2477

**National Foundation on the Arts and Humanities**
NOTICES
Meetings:
Humanities Panel, 2466

**National Oceanic and Atmospheric Administration**
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 2412

**National Park Service**
NOTICES
Boundary establishment, descriptions, etc.:
Boston National Historical Park, MA, 2451
Mining plans of operations; availability, etc.:
Kenai Fjords National Park, 2451
Native American relationships policy, 2452

**National Science Foundation**
NOTICES
Meetings:
Cellular Physiology Advisory Panel, 2466
Regulatory Biology Advisory Panel, 2467

**Nuclear Regulatory Commission**
PROPOSED RULES
Production and utilization facilities; domestic licensing:
Light-water-cooled nuclear power plants; leakage rate testing for containments, 2416
NOTICES
Regulatory guides:
Issuance, availability, and withdrawal, 2467

**Office of United States Trade Representative**
*See* Trade Representative, Office of United States

**Postal Service**
NOTICES
Meetings; Sunshine Act, 2477

**Presidential Documents**
ADMINISTRATIVE ORDERS
Bolivia: U.S. assistance (Memorandum of January 5, 1987), 2391
Nicaraguan Democratic Resistance; U.S. assistance (Memorandum of December 27, 1986), 2389

**Public Health Service**
*See also* Health Resources and Services Administration
NOTICES
Meetings:
Vital and Health Statistics National Committee, 2449
(2 documents)

**Rural Electrification Administration**
RULES
REA privatization demonstration program, 2394

**Securities and Exchange Commission**
RULES
Organization, functions, and authority delegations:
Investment Management Division, Director, 2400
NOTICES
Agency information collection activities under OMB review, 2469
Self-regulatory organizations; proposed rule changes:
New York Stock Exchange, Inc., 2471
Self-regulatory organizations; unlisted trading privileges:
Philadelphia Stock Exchange, Inc., 2471, 2472
(2 documents)
*Applications, hearings, determinations, etc.:*
Arley Merchandise Corp., 2470
Citicorp, 2468
Pruco Life Series Fund, Inc., 2472
Public utility holding company filings, 2470

**Small Business Administration**
RULES
Small business size standards:
Standard industrial Classification System; size compatibility
Correction, 2400
NOTICES
*Applications, hearings, determinations, etc.:*
Jardine Capital Corp., 2472

**Soil Conservation Service**
NOTICES
Watershed projects; deauthorization of funds:
Chimacum Creek Watershed, WA, 2436

**Surface Mining Reclamation and Enforcement Office**
PROPOSED RULES
Prohibitions to coal mining and valid existing rights; intent to prepare environmental impact statement and regulatory impact analysis, 2421

**Trade Representative, Office of United States**
NOTICES
Commercial launch services and related goods; consultations with foreign officials, 2467

Japan supercomputer trade practices, 2467

**Transportation Department**
*See* Federal Highway Administration

**Treasury Department**
*See also* Customs Service; Fiscal Service
**NOTICES**
Agency information collection activities under OMB review.
2473, 2474
(3 documents)

---

**Separate Parts In This Issue**

**Part II**
Environmental Protection Agency, 2480

**Part III**
Environmental Protection Agency, 2492

**Part IV**
Department of Commerce, International Trade Administration, 2500

---

**Reader Aids**
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**3 CFR**

**Administrative Orders:**

Presidential Determinations:

No. 87-6 of Dec. 27, 1986 ..... 2389

No. 87-7 of Jan. 5, 1987 ..... 2391

**7 CFR**

1403 ..... 2393

1787 ..... 2394

**9 CFR**

**Proposed Rules:**

319 ..... 2416

**10 CFR**

**Proposed Rules:**

50 ..... 2416

**11 CFR**

**Proposed Rules:**

100 ..... 2416

**12 CFR**

227 ..... 2398

**13 CFR**

121 ..... 2400

**15 CFR**

371 ..... 2500

373 ..... 2500

376 ..... 2500

379 ..... 2500

385 ..... 2500

399 ..... 2500

**17 CFR**

200 ..... 2400

**18 CFR**

271 ..... 2401

**19 CFR**

**Proposed Rules:**

6 ..... 2418

24 ..... 2419

**30 CFR**

**Proposed Rules:**

761 ..... 2421

784 ..... 2421

**31 CFR**

210 ..... 2405

**40 CFR**

**Proposed Rules:**

152 ..... 2423

268 ..... 2423

300 ..... 2492

421 ..... 2480

**42 CFR**

**Proposed Rules:**

405 ..... 2430

416 ..... 2430

418 ..... 2430

421 ..... 2424

442 ..... 2430

482 ..... 2430

**47 CFR**

61 ..... 2411

**49 CFR**

1057 ..... 2412

**50 CFR**

672 ..... 2412

Federal Register
Vol. 52, No. 14
Thursday, January 22 1987

# Presidential Documents

Title 3—

## The President

**Presidential Determination No. 87–6 of December 27, 1986**

## Further Assistance to the Nicaraguan Democratic Resistance

**Memorandum for the Secretary of State**

In accordance with Title II, Section 211 (c) of the Military Construction Appropriations Act for the fiscal year ending September 30, 1987, as contained in Public Law 99–500, approved on October 18, 1986 (the "Act"), I hereby determine that the conditions set forth in that section with respect to provision of assistance to the Nicaraguan Democratic Resistance have been met, specifically:

(a) that the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(b) that the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions;

(c) that there is no reasonable prospect of achieving such agreement, dialogue, cease-fire and end to constraints described above through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

You are hereby directed to report this determination to the Congress. This memorandum shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
*Washington, December 27, 1986.*

[FR Doc. 87–1452
Filed 1–20–87; 12:35 pm]
Billing code 3195–01–M

# Presidential Documents

**Presidential Determination No. 87–7 of January 5, 1987**

## Certification To Authorize Assistance for Bolivia

**Memorandum for the Secretary of State**

Pursuant to Section 611 of the International Security and Development Cooperation Act of 1985 (as amended by P.L. 99–570, the Anti-Drug Abuse Act of 1986) and Section 536 of the FY 1987 Foreign Assistance Appropriations Act, which incorporates by reference the provisions of Section 611, I hereby certify that the Government of Bolivia has engaged in narcotics interdiction operations which have significantly disrupted the illicit coca industry in Bolivia and has cooperated with the United States in such operations.

You are requested to report this determination to the Congress. This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
*Washington, January 5, 1987.*

[FR Doc. 87–1453
Filed 1–20–87; 12:36 pm]
Billing code 3195–01–M

# Rules and Regulations

Federal Register
Vol. 52, No. 14
Thursday, January 22, 1987



## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### 7 CFR Part 1403

### Referral of Delinquent Debts to IRS for Tax Refund Offset

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule establishes procedures under which Commodity Credit Corporation (CCC) may refer to the Secretary of the Treasury delinquent debts owed to CCC for collection by offset against Federal income tax refunds. Due to the immediate need for these procedures, the following procedures are published as an interim rule with an invitation to comment.

**DATES:** This regulation shall become effective January 22, 1987. Comments must be received by March 23, 1987.

**ADDRESSES:** Comments should be addressed to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All comments submitted in response to this interim regulation will be available for public inspection, in Room 6094, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC, between 8:30 am and 4:00 pm, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Bill Waggener, Claims Specialist, (202) 447–4298.

**SUPPLEMENTARY INFORMATION:** This interim rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." This rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs and prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Domestic Assistance Programs to which this interim rule applies are: Commodity Loans and Purchases, 10.051; Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consulting with State and local officials. See Notice related to 7 CFR Part 3015, Subpart V., published at 48 FR 29115 (June 24, 1983).

This action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this interim rule.

This regulation amends 7 CFR Part 1403 to establish procedures to be followed by CCC in implementing 31 U.S.C. 3720A, the authority under which Federal agencies refer delinquent debts to the Department of the Treasury for collection by offset against tax refunds owed to named persons. Under 26 U.S.C. 6402(d), the Internal Revenue Service (IRS) may collect by offset against refunds payable after December 31, 1985 and before January 1, 1988 or until a date established by any future extension of the statute, debts referred by Federal agencies.

Implementation of the tax refund offset initiative in 1986–87 is essential for effective Federal debt collection and to the integrity of Federal programs. The statute provides that a Federal agency furnish a debtor with notice of a proposed IRS offset and at least 60 days within which to present evidence regarding the debt. 31 U.S.C. 3720A(b). The IRS has established a deadline of December 1, of each year, for referral of debts to be collected by offset against tax refunds. By that date, CCC must have provided to each debtor whose account it proposes to refer to the IRS a notice of proposed offset, a period of at least 60 days within which to submit evidence regarding that debt, and upon request, an intra-agency administrative review. The debtor, upon request, will have access to agency records pertaining to the debt. These regulations are adopted to comply with the authorizing statute, 31 U.S.C. 3720A, and the implementing regulations at 26 CFR 301.6402–6T, issued by IRS. Many of the requirements of the statute and the Treasury Regulation, such as the 60 day period to contest the validity of and the right to collect the debt, are now part of the CCC debt collection procedures.

These regulations contain deadlines for a debtor's submission of requests and other matters to CCC. 26 CFR 301.6402–6T(c)(1). IRS regulations also provide that delinquent debts be referred to a consumer reporting agency prior to referral for tax refund offset. Due to the unique character of debts owed to CCC, IRS has waived this requirement for CCC debts being referred for tax refund offset. This does not prejudice the rights or obligations of CCC debtors.

Since it is imperative for effective money management and debt collection to refer debts to the Department of Treasury for collection by offset against tax refunds, it has been determined that this interim rule shall be effective on date of publication in the **Federal Register** without opportunity for prior public comment. However, the public is invited to submit written comments with respect to this interim rule to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. Comments must be received not later than March 23, 1987 in order to be assured of consideration. Comments received will be evaluated, and a final rule will be published in the **Federal Register** discussing the comments received and any further amendments to these regulations which may be deemed necessary.

**List of Subjects in 7 CFR Part 1403**

Commodity Credit Corporation, Credit reporting procedures, Delinquent debts.

Accordingly, the regulations at 7 CFR Part 1403 are amended as follows:

1. The authority citation for Part 1403 is revised to read as follows:

**Authority:** Sec. 4, Pub. L. 80–89, 62 Stat. 1070, as amended, (15 U.S.C. 714b) and sec. 2653(a)(1), Pub. L. 98–369, 98 Stat. 1153 (31 U.S.C. 3720A).

2. The heading to Subpart B is revised to read as follows:

**Subpart B—Referral of Delinquent Debt Information to Credit Reporting Agencies and to IRS for Tax Refund Offset**

3. A new § 1403.46 is added to Subpart B to read as follows:

**§ 1403.46 Referring Delinquent Debts to IRS for Tax Refund Offset.**

(a) CCC may refer legally enforceable delinquent debts to the Internal Revenue Service (IRS) to be offset against any tax refund that may become due the delinquent debtor for the tax year in which the referral is made, in accordance with the IRS regulations at 26 CFR 301.6402–6T, Offset of Past-Due Legally Enforceable Debt Against Overpayment. For the purpose of this rule, notwithstanding the provisions of 7 CFR Parts 13 and 1408, CCC may collect, through IRS offset, debts otherwise legally enforceable which have not been delinquent for more than ten years.

(b) A delinquent debt may be referred to IRS provided such debt:

(1) Is at least three months delinquent, but is less than eleven years delinquent, and CCC has exhausted all reasonable administrative efforts to collect it;

(2) Is in a sum certain of not less than $25.00;

(3) Has not been judicially discharged in a bankruptcy proceeding or is not the subject of an on-going bankruptcy proceeding;

(4) Is not currently collectible by CCC through administrative offset procedures established under 7 CFR Part 13 and 7 CFR Part 1408; or by salary offset procedures established at 5 CFR Part 550, or 7 CFR Part 3; and

(5) Is a non-corporate debt owed by an individual.

(c) In determining whether or not to refer a particular delinquent debt to IRS, CCC shall consider the feasibility of collecting the debt by tax refund offset, other legal or administrative remedies available to CCC, and whether tax refund offset will further and protect the interests of the United States.

(d) A delinquent debtor will be sent written notification that CCC intends to refer the debt to IRS for tax refund offset. For debts delinquent before November 1, 1986, CCC shall send notification to the debtor of the specific intent to refer to IRS for tax refund offset. For debts which become delinquent on or after November 1, 1986, CCC shall include such notice of intent in the initial demand letter and notification of indebtedness required pursuant to the Federal Claims Collection Standards at 4 CFR Parts 101 through 105; and the Setoff and Withholding regulations at 7 CFR Part 13 or 1408.

(e) The delinquent debtor will also be sent written notice, at least 60 days prior to IRS referral, of:

(1) The basis and amount of the debt;

(2) The debtor's right to inspect and copy the records of CCC related to the debt;

(3) The debtor's right to enter into an agreement to repay the debt, including installment payment agreements, at CCC's discretion;

(4) The debtor's right to an appeal in accordance with 7 CFR 1403.30; and

(5) The applicable deadline for the debtor to take any action or make any request as specified in this section.

(f) It is contemplated that the notice under paragraph (e) will usually be combined with the notice and demand procedures in § 1403.25.

(g) The debtor shall obtain review in accordance with the provisions of 7 CFR 1403.30, if he requests that review, in writing, within 60 days from the date notice of intent was mailed to or otherwise delivered to the debtor.

Signed at Washington, DC, on January 14, 1987.

**Milt Hertz,**

*Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 87–1264 Filed 1–21–87; 8:45 am]

BILLING CODE 3410–05–M

---

**Rural Electrification Administration**

**7 CFR Part 1787**

**REA Privatization Demonstration Program**

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Rural Electrification Administration (REA) hereby amends 7 CFR Chapter XVII by adding Part 1787, REA Privatization Demonstration Program. The new part establishes policies and procedures to implement those provisions of an Act Making Continuing Appropriations for Fiscal Year of 1987 and For Other Purposes (Pub. L. 99–591) (the "1986 Act") which amend the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (the "RE Act") by adding a new section 311. Section 311 provides authority to establish a privatization demonstration program whereby borrowers in the State of Alaska are permitted to prepay, on favorable terms, certain loans held by the Federal Financing Bank ("FFB"), a wholly-owned government instrumentality under the supervision of the Secretary of the Treasury, and guaranteed by REA; provided that the borrower prepays all outstanding loans made or guaranteed under the RE Act. A direct or insured loan prepared under section 311 may be prepaid by the borrower at the lesser of the outstanding principal balance due on the loan or the loan's present value discounted from the face value at maturity at a rate set by the Administrator. A Rural Telephone Bank ("RTB") loan made pursuant to the RE Act may be prepaid by paying the outstanding principal balance due on the loan. Borrowers who prepay FFB loans pursuant to section 311 of the RE Act must prepay all of their outstanding FFB loans at one time and prior to prepaying their outstanding REA or RTB loans.

Subject to certain exceptions, neither the borrower nor others serving the area served by a borrower which prepays FFB loans under section 311 will be eligible for loans, loan guarantees or other financial assistance pursuant to the RE Act.

The 1986 Act limits the applicability of the section 311 privatization demonstration program to borrowers within the State of Alaska. For the purposes of developing legislative proposals to further amend the RE Act, REA requests that any electric or telephone borrowers that are interested in similar arrangements notify REA by submitting comments on this interim rule.

**DATES:** Interim rule effective on January 21, 1987; written comments must be received by REA February 23, 1987.

**ADDRESS:** Comments may be mailed to the Rural Electrification Administration, Attention: Laurence V. Bladen, Room 4064, South Building, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Mr. Laurence V. Bladen, Financing Policy Specialist, Rural Electrification Administration, telephone number (202) 382–1265.

**SUPPLEMENTARY INFORMATION:** Pursuant to the RE Act, REA hereby amends 7 CFR Chapter XVII by adding a new part

concerning the REA Privatization Demonstration Program.

This action has been reviewed in accordance with Executive Order 12291, Federal Regulations. It will not (1) have an annual effect on the economy of $100 million or more; or (2) result in a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies or geographic regions; or (3) result in significant adverse effects on competition, employment, investment or productivity, and has been determined not to be "major".

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule will not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.* (1976)] and, therefore, does not require an environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, (November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Section 311 of the RE Act directed the Administrator of REA to issue regulations within 60 days of enactment to implement the privatization program. While the Administrator was unable to meet this statutory deadline these regulations are being issued as a Interim Rule with a request for comments. Interested parties have 30 days in which to comment.

**Background**

Prior to enactment of Pub. L. 99-349, Pub. L. 99-509, and Pub. L. 99-591 Alaska borrowers wishing to prepay their FFB loans had to comply with the provisions of the notes evidencing their loans which in general required a prepayment premium. Section 311 permits a REA-financed electric or telephone system in the State of Alaska to prepay their FFB loans by paying the outstanding balance on the loan, if the borrower agrees to prepay all outstanding loans made or guaranteed under the RE Act within one year of prepayment of the first FFB loan.

Section 311 permits such prepaid guaranteed loans to be refinanced using the existing section 306 of the RE Act loan guarantee with private capital in an amount not to exceed the outstanding principal amount being prepaid. However, the guarantee shall be a 90 percent guarantee. In the event of a payment default by the borrower, under the terms of this guarantee, REA shall pay the guaranteed lender, when and as due, 90 percent of the unpaid portion of the regularly scheduled debt service payment on the private guaranteed loan. The guarantee shall be fully transferable and assignable.

Subject to certain exceptions, neither the borrower nor others serving the area served by a borrower which prepays FFB loans under section 311 will be eligible for loans, loan guarantees or other financial assistance pursuant to the RE Act.

In connection with the prepayment of an FFB loan, no sums in addition to the payment of the outstanding balance on the loan may be charged as a result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund, or REA. Except for the FFB Loans being refinanced pursuant to this Part, no guarantee or loan assistance shall be available to refinance outstanding loans prepaid hereunder.

It is REA policy to carry out the objectives of this privatization demonstration program without increasing the loan guarantee exposure to REA or the administrative burden on REA.

**List of Subjects in 7 CFR Part 1787**

Administrative practice and procedure, Electric utilities, Telephone utilities, Guaranteed Loan Program—energy, Guaranteed Loan Program—telephony, Insured Loan Program—energy, Insured Loan Program—telephony, Rural telephone bank Loans, Discounted prepayments on REA notes, Privatization Demonstration Program.

In view of the above, REA hereby amends 7 CFR Chapter XVII by adding Part 1787 to read as follows:

## PART 1787—REA PRIVATIZATION DEMONSTRATION PROGRAM

Sec.

1787.1 Purpose.
1787.2 Policy.
1787.3 Definitions.
1787.4 Demonstration Program.
1787.5 REA Guarantee.
1787.6 Qualifications.
1787.7 Loan security.
1787.8 Prepayment of REA and RTB Notes.
1787.9 Application procedure.
1787.10 Future eligibility under the RE Act.
1787.11 Settlement procedure.
1787.12 Other prepayments.

**Authority:** 7 U.S.C. 901-950b; Pub. L. 99-591, delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

### § 1787.1 Purpose.

This subpart contains the general regulations of the Rural Electrification Administration (REA) for implementing section 311 of the RE Act which, in certain circumstances, permits loans made by the Federal Financing Bank (FFB) and guaranteed by the Administrator of REA to be prepaid by REA Alaska borrowers using private capital with a 90 percent guarantee.

### § 1787.2 Policy.

It is REA policy to carry out this privatization demonstration program in a manner which will minimize the loan guarantee exposure to REA and the administrative burden on REA.

### § 1787.3 Definitions.

For the purpose of this part:

"Administrator" means the Administrator of REA.

"Discounted Present Value" shall have the meaning specified in § 1787.8(a).

"Existing Loan Guarantee" means a guarantee of payment issued by REA to FFB pursuant to the RE Act.

"Fees" means any fees, costs or charges, incurred in connection with obtaining the Refund Loan used to make the prepayment including without limitation, accounting fees, filing fees, legal fees, printing costs, recording fees, trustee fees, overheads of the borrower, underwriting fees, capital stock purchases, or other equity investment requirements of the Private Lender.

"FFB" means the Federal Financing Bank, an instrumentality and wholly-owned corporation of the United States.

"FFB Loan" a promissory note executed in favor of the FFB by a borrower and guaranteed by REA pursuant to section 306 of the RE Act (7 U.S.C. 936).

"Guarantee" shall have the meaning specified in § 1787.5.

"Loan Guarantee Agreement" means the written contract by and among the Private Lender, the borrower and the Administrator setting forth the terms and conditions of a Guarantee issued pursuant to the provisions of this part.

"Mortgage" means the mortgage and security agreements by and among the borower and REA, as from time to time supplemented, amended and restated.

"Private Lender" shall have the meaning set forth in § 1787.6(b).

"REA" means the Rural Electrification Administration, an agency of the United States Department of Agriculture.

"RE Act" means the Rural Electrification Act of 1936 (7 U.S.C. 901–950b), as amended.

"REA Notes" mean those notes, bonds or other obligations evidencing indebtedness created by loans made pursuant to Titles I, II, or III of the RE Act (7 U.S.C. 901–940).

"Refunding Loan" means the loan or loans used by the borrower to prepay FFB Notes, REA Notes or RTB Notes pursuant to this part.

"Refunding Note" means the note(s), bond(s) or other obligation(s) evidencing indebtedness created by the Refunding Loan(s).

"RTB" means the Rural Telephone Bank, a body corporate and instrumentality of the United States established pursuant to 7 U.S.C. 941.

"RTB Notes" mean those notes, bonds or other obligations evidencing indebteness created by loans made by the RTB pursuant to Title IV of the RE Act (7 U.S.C. 941–950b).

"Service Area" shall have the meaning set forth in § 1787.10(c).

**§ 1787.4 Demonstration Program.**

Pursuant to section 311 of the RE Act and this part, qualified borrowers may prepay FFB Loans by paying the outstanding principal balance due thereon. Borrowers may refinance FFB Loans with Refunding Loans from qualified Private Lenders. Such Refunding Loans shall be eligible for a Guarantee as hereinafter provided. Participating borrowers shall be required to prepay all other loans made or guaranteed pursuant to the RE Act and otherwise comply with the provisions of this part. Because section 311 of the RE Act provides for a demonstration program of limited applicability, many of the terms and conditions for prepayments of FFB Loans and in particular the terms and conditions of Refunding Loans shall be negotiated on a case-by-case basis by REA, the borrower, and the Private Lender, and any other secured party under the borrower's Mortgage.

**§ 1787.5 REA Guarantee.**

For the purposes of this part, "Guarantee" means the endorsement in the form specified by REA. The Guarantee shall provide, among other matters, that in the event of a payment default by the borrower on a Refunding Note bearing a Guarantee, REA shall pay the Private Lender, when and as due, 90 percent of the unpaid portion of the regularly scheduled debt service payment on such Refunding Note. REA shall have the right to accelerate, in accordance with § 1787.6(c)(7), such Refunding Note and pay the Private Lender 90 percent of the outstanding principal balance and accrued interest of the loan guaranteed by REA and be discharged from its Guarantee obligation.

**§ 1787.6 Qualifications.**

(a) *Borrows.* To qualify to prepay an FFB Loan pursuant to this part, the borrower:

(1) Must be located in the State of Alaska;

(2) Must prepay the FFB Loan using private capital;

(3) Must prepay all of its outstanding loans made or guaranteed under the RE Act; and

(b) *Private Lenders.* To qualify for a Guarantee pursuant to this part, the Private Lender must be an entity or a trust administered by an entity; such entity in either case must also:

(1) Be a private legally organized lender;

(2) Either (i) be subject to credit examination and supervision by either an agency of the United States or a State and be in good standing with its licensing authority and have met the requirements, if any, of licensing, lending and loan servicing in the State where the collateral for the Refunding Loan is located; (ii) have capital and surplus of at least $50 million; or (iii) have credit support such as a letter of credit or guarantee, in form and substance satisfactory to the Administrator, in the amount of $50 million.

(3) Have the capability to adequately service the Refunding Loan by using its own resources. Under no circumstances may the borrower or an affiliate of the borrower service the Refunding Loan. Required servicing shall include:

(i) The billing and collecting of the Refunding Loan payments from the borrower; (ii) notifying the Administrator promptly of any default in the payment of principal and interest on the Refunding Loan and submitting a report, as soon as possible thereafter, setting forth the Private Lender's views as to the reasons for the default, how long the Private Lender expects the borrower to be in default, and what corrective actions the borrower states it is taking to achieve a current debt service position; (iii) notifying the Administrator of any known violations or defaults by the borrower under the lending agreement, Loan Guarantee Agreement, or related security instruments, or conditions of which the Private Lender is aware which might lead to nonpayment violation or other default; and (iv) such other activities as may be specified in the Loan Guarantee Agreement.

(c) *Refunding Loans.* Refunding Loans, the proceeds of which are used exclusively to prepay FFB Loans, shall be eligible for a Guarantee under this Part. With respect to the prepayment of any one FFB Loan, the Administrator may endorse Guarantees evidencing Refunding Loans in increments not less than $30 million except where an FFB Loan being prepaid is less than $150 million in which case the Administrator may endorse Guarantees on not more than five Refunding Notes. REA shall generally require as a condition to providing a Guarantee that the Refunding Loan and Refunding Note comply with the following:

(1) The principal amount of the Refunding Note may not exceed the outstanding principal balance of the FFB Loan being prepaid.

(2) For the life of the loan the interest rate, whether fixed or variable, on the Refunding Note shall be less than the dollar weighted average interest rate on the FFB Loan being prepaid.

(3) The unguaranteed portion of the Refunding Note may not be severed or "stripped" from the guaranteed portion of the Refunding Note.

(4) Principal payments shall commence on the first payment date following the closing of the Refunding Loan and shall be made either quarterly, semiannually or annually.

(5) The Refunding Note shall provide for scheduled principal amortization at an annual rate of not less than the annual principal amortization rate of the FFB Loan. The Refunding Note shall not provide for balloon or bullet payments.

(6) The term of the Refunding Note shall not exceed the shorter of: (i) 34 years from the last day of the calendar year in which the first advance of funds was made under the FFB Loan or (ii) the final maturity date of the FFB Loan.

(7) The loan documentation shall provide REA with the right to accelerate the Refunding Loan upon the occurance of an Event of Default as that term is defined in the Mortgage at the earlier of: (i) Any date the borrower may prepay in accordance with the terms of the Refunding Note, or (ii) the tenth anniversary date of the Refunding Note.

(8) The principal of Refunding Note shall not include amounts attributable to Fees associated with the Refunding Loan. Subject to the approval of the Administrator in connection with the development of loan documentation, the interest rate on the Refunding Note may include amounts attributable to Fees if the net effective interest rate including such Fees meets the tests contained in

§ 1787.6(c)(2). The borrower, subject to the approval of REA, may finance the Fees with the proceeds of a loan. Such a loan will not be guaranteed by REA nor will REA share first mortgage security to enable another lender to obtain security for such a loan to the borrower.

(9) Refunding Loans and Refunding Notes shall otherwise be in form and substance satisfactory to the Administrator.

(d) *Participation of Refunding Loan.* A qualified Private Lender may participate out each Refunding Loan which bears a Guarantee pursuant to this Part to entities other than a Government agency, the borrower, or an affiliate of the borrower, provided that such participation shall be on terms and conditions satisfactory to the Administrator. Generally, the Private Lender may utilize any financing structure it desires in obtaining funds to make the Refunding Loan, providing the Refunding Loan meets the requirements of § 1787.6(c).

**§ 1787.7 Loan security.**

(a) *Loan security.* Refunding Notes evidencing Refunding Loans made to the borrower will be secured as follows:

(1) The Refunding Note(s) bearing an REA Guarantee, will be secured under the Mortgage on a *pari passu* basis with all other secured indebtedness of the borrower. Both the obligation of the borrower to reimburse REA for any funds advanced by REA pursuant to the Guarantee and the 10 percent unguaranteed portion of the Refunding Note shall be so secured.

(2) The Refunding Note(s) which do not bear an REA Guarantee, will be secured, in a principal amount equal to the outstanding principal balance due on the REA Notes or RTB Notes which are prepaid pursuant to this Part, under the Mortgage on a *pari passu* basis with all other secured indebtedness of the borrower.

(3) The Mortgage shall permit additional indebtedness to be secured thereunder on a *pari passu* basis with the approval of the Administrator.

(b) *Mortgage rights and remedies.* The terms of the Mortgage, including the rights and remedies available to REA, the Private Lenders and other secured parties under the Mortgage will be subject to negotiations between the borrower and such parties.

**§ 1787.8 Prepayment of REA and RTB Notes.**

(a) The borrower shall prepay all outstanding REA Notes within one year after prepayment of FFB Loans at the lesser of the outstanding principal balance due on the loan or the loan's Discounted Present Value. The Discounted Present Value shall be calculated five business days before prepayment is made by summing the present values of all remaining payments by using the following formula:

$$\text{Present Value} = \sum_{k=1}^{n} \frac{P_k}{\prod_{i=1}^{k} \left[1.0 + \left(\frac{D1_i}{365} + \frac{D2_i}{366}\right) \times I\right]}$$

Where:

$P_k$ = Total payment, including interest, due on the $k^{th}$ payment date following the prepayment date.

n = Total number of remaining payments dates.

I = The discount rate, in decimals, which shall be the average rate on utility bonds bearing a rating of "Aa" as set forth in that issue of Moody's Public Utility News Reports most recently published prior to the date on which Discounted Present Value is calculated.

$D1_i$ = Number of days in the $i^{th}$ payment period that are in a non-leap year (365 day year).

$D2_i$ = Number of days in the $i^{th}$ payment period that are in a leap year (366 day year).

(b) The borrower shall prepay all RTB Notes within one year after prepayment of the FFB Loans by paying the outstanding principal balance due on the RTB Notes.

(c) The borrower shall prepay all other REA guaranteed notes in accordance with the terms of such notes.

(d) Except as otherwise provided prepayments of REA Notes, RTB Notes, and REA guaranteed notes shall be in such terms and conditions as the Administrator shall prescribe. If the borrower is a party to a wholesale power contract with a power supplier financed pursuant to the RE Act. the borrower must provide the Administrator with such assurances as the Administrator may request that it will meet it obligations to the power supplier.

**§ 1787.9 Application procedure.**

(a) *Applications.* Applications to make a prepayment pursuant to this part must be submitted to the appropriate Area Director not less than 30 business days prior to the projected settlement date for the Refunding Loan and shall be on such forms as REA may prescribe. The application shall provide among other matters the following:

(1) Borrower's REA designation.

(2) Borrower's name and address.

(3) A certified copy of a resolution of the board of directors of the borrower that: (i) Requests REA approval of the prepayment and (ii) recognizes that the request results in the borrower being ineligible for additional financial assistance under the RE Act.

(4) Listing of each REA Note, RTB Note or FFB Note or other REA guaranteed note to be prepaid by loan designation, REA account number, advance date, maturity date, original amount, and outstanding balance.

(5) Evidence that the borrower meets or will be able to meet the qualification provisions of § 1787.6(a) of these regulations including that the borrower has the ability to obtain the financing necessary to prepay its outstanding REA Notes, RTB Notes, FFB Notes and other REA guaranteed notes within one year of the prepayment of the first FFB Loan.

(6) Private Lender's proposal for the Refunding Loan.

(7) Evidence of the Private Lender's qualifications.

(8) Servicing entity's name and address.

(9) Evidence that the borrower has received all approvals which can be obtained at the time of application and which are required under Federal or State law, loan agreements, security agreements, existing financing arrangements, or any other agreement to which the borrower is a party.

(10) Estimate of Fees and expenses, including any taxes.

(11) Description of the area served by the borrower.

(b) *Notifications.* If a borrower's application has been approved, the Administrator will promptly notify the borrower, the Private Lender and FFB to that effect. If not approved the Administrator will promptly notify the borrower.

**§ 1787.10 Future eligibility under the RE Act.**

With respect to borrowers which prepay FFB Loans pursuant to this part

additional loans, loan guarantees and other financial assistance under the RE Act shall be restricted as follows:

(a) *Electric borrowers.* In the case of an electric borrower prepaying under this Part, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to the RE Act to the borrower or its successors or for the purpose of financing the construction or operation of generating plants or bulk transmission lines for the purpose of furnishing electric energy in the area served on a retail or wholesale basis by such borrower.

(b) *Telephone borrowers.* In the case of a telephone borrower prepaying under this part, after the date of prepayment, no loans, loan guarantees or other financial assistance shall be provided pursuant to the RE Act to the borrower or its successors or for the purpose of furnishing or improving telephone service in the area served by such borrower.

(c) *Service Area.* For the purposes of this part, the borrower's "Service Area" shall be as determined by the Administrator based upon data as of December 31, of the year preceding the date of prepayment. In determining the Service Area of electric borrowers, the Administrator shall make allowances and adjustments to avoid adversely affecting the eligibility of other borrowers for financial assistance under the RE Act where such borrowers are currently providing electric supply services for retail loads in the same area and which are reasonably expected to continue providing electric supply services for retail loads in such areas.

(d) *Other Borrowers.* In the event that the borrower prepaying under this part shall be suing a majority of its generating capacity to directly serve its retail consumers, other borrowers which are purchasing power from such borrower as of September 20, 1986, shall continue to remain eligible for financing under the RE Act for needs in their service area.

(e) *Project Participation.* Nothing in this part shall prohibit a borrower which has prepaid pursuant to this Part from participating in generation and transmission projects with borrowers which have not prepaid, so long as the borrower which has prepaid utilizes private capital financing without financial assistance under the RE Act.

(f) *Short-Term Power Purchases.* Nothing in this part shall prohibit short-term power purchases by borrowers which have prepaid under this section from borrowers which have not prepaid.

(g) *Lien Accommodations.* The Administrator shall consider on a case-by-case basis requests by a borrower which has prepaid under section 311 of the RE Act for an accommodation of the lien of the Mortgage on a *pari passu* basis, to provide security for a lender who provides the borrower with a loan for the purposes of financing electric or telephone facilities within the borrower's Service Area or for other corporate purposes.

**§ 1787.11 Settlement procedure.**

(a) *Settlement Date.* When REA is satisfied with the documentation, the parties will schedule a settlement date. The Refunding Loan will be settled and the Guarantee delivered on a date and time mutually agreed upon among the parties not earlier than ten business days after receipt by REA of all final documentation. REA reserves the right to limit the aggregate dollar amount of and/or the number of prepayments or settlements that take place on any given day.

(b) *Place of Settlement.* All settlements involving the Guarantee of Refunding Loans will take place in Washington, DC, at a location of the borrower's choosing.

(c) *Repayment of FFB.* Prior to 1:00 p.m. prevailing local time in New York, New York, on the settlement date, the borrower shall wire immediately available funds to REA through the Department of the Treasury account at the Federal Reserve Bank of New York in an amount sufficient to pay the outstanding principal of FFB Loans plus accrued interest from the last payment date to and including the settlement date. In the event the borrower has more than one FFB Loan, all such loans must be prepaid at the same settlement.

(d) *Prepayment of REA Notes and RTB Notes.* In the event that the borrower chooses not to prepay all its outstanding REA Notes and RTB Notes simultaneously with the prepayment of the FFB Loans, the borrower shall execute:

(1) An agreement specifying that such REA Notes and RTB Notes will be prepaid within one year of the settlement date and

(2) A note payable to REA in an amount equal to the premiums that would have been due under the FFB Notes being prepaid if the FFB Notes had been prepaid in accordance with their terms rather than pursuant to this part. This note shall (i) bear interest at a rate equal to the rate on the FFB Notes, (ii) be secured in a manner satisfactory to the Administrator, (iii) be payable on demand one year after the settlement date in the event that the borrower does not prepay all its outstanding REA Notes, RTB Notes and other REA guaranteed notes within one year of the date it prepays its FFB Notes, and (iv) be cancelled and returned to the borrower if the borrower's REA Notes, RTB Notes and other REA guaranteed notes are prepaid within one year of the date it prepays its FFB Notes.

(e) *Documentation.* The documentation to be delivered at settlement will be agreed upon by the Private Lender, the borrower and REA. Depending upon the circumstances, REA may require the borrower to perform a search of title, provide additional title insurance and take such other actions as may be necessary to ensure that the interests of the Government are adequately protected.

**§ 1787.12 Other prepayments.**

Nothing shall prohibit a borrower from making prepayments of FFB Loans, REA loans, RTB loans, or other REA guaranteed loans in accordance with the terms thereof.

Dated: January 13, 1987.

**Harold V. Hunter,**

*Administrator.*

[FR Doc. 87-1398 Filed 1-21-87; 8:45 am]

BILLING CODE 3410-15-M

## FEDERAL RESERVE SYSTEM

## 12 CFR Part 227

**[Reg. AA; Docket No. R-0581]**

## Unfair or Deceptive Acts or Practices; Order Granting Partial Exemption to the State of New York From the Credit Practices Rule

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Order; Exemption from regulation.

**SUMMARY:** The Board has determined that the exemption from the cosigner provision of the Credit Practices Rule, Subpart B of Regulation AA, 12 CFR 227.14, requested by the State of New York should be granted in part.

**EFFECTIVE DATE:** January 22, 1987.

**FOR FURTHER INFORMATION CONTACT:** Adrienne D. Hurt, Heather Hansche, or Susan Kraeger, Staff Attorneys, Division of Consumer and Community Affairs, at (202) 452-3867 or (202) 452-2412; for the hearing impaired *only*, contact Telecommunications Device for the Deaf (TDD), Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

**SUPPLEMENTARY INFORMATION:**

**(1) Background**

In April 1985 the Board adopted its Credit Practices Rule, 12 CFR Part 227 (50 FR 16695), thereby amending its Regulation AA (Unfair or Deceptive Acts or Practices). The Board's rule, which became effective on January 1, 1986, followed the adoption by the Federal Trade Commission (FTC) of its Credit Practices Rule in March 1984 (49 FR 7740), effective March 1, 1985.[1] The Board's rule applies to all banks and their subsidiaries.

The Credit Practices Rule prohibits banks from entering into any consumer credit obligation that contains a confession of judgment clause, a waiver of exemption, certain types of wage assignments, or a nonpossessory, nonpurchase-money security interest in household goods. The rule prohibits the enforcement of these provisions in a consumer credit obligation purchased by a bank.

The rule also prohibits a practice commonly referred to as "pyramiding" of late charges. Under the late charges provision, it is an unfair practice for a bank to assess multiple late charges based on a single delinquent payment that is subsequently paid. In addition, the rule prohibits a bank from misrepresenting a cosigner's liability and requires the bank to give a cosigner, prior to becoming obligated in connection with a consumer credit transaction, a disclosure notice that explains the nature of the cosigner's contractual obligation and liability.

Compliance with the provisions of the Board's Credit Practices Rule is provided through administrative enforcement (including compliance examinations and investigations). Administrative enforcement of the rule for banks may involve actions under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), including the issuance of cease and desist orders and the imposition of penalties of up to $1,000 per day for violation of an order Staff guidelines—in question and answer format—designed to aid banks in complying with the Credit Practices Rule were issued in November 1985 (50 FR 47036).

Section 227.16 of the Credit Practices Rule provides that if a State applies for an exemption from a provision of the rule, an exemption may be granted if the Board determines that (1) there is a State requirement or prohibition in effect that applies; and (2) the State requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the rule's provision. The effect of an exemption is that banks and their subsidiaries (other than federally chartered institutions) that are subject to the Board's rule will be subject solely to State law and enforcement, for as long as the State effectively administers and enforces the State requirement or prohibition.

Applicable State law provisions need not be the same as the comparable federal requirement in order to meet the rule's substantially equivalent standard. Variations, however, should not deprive consumers of protections provided by Federal law. An analysis of the State's enforcement activities focuses on the ways in which a State demonstrates a commitment to enforcement and administration of the State's law; factors such as staffing, training activities, examination and administrative procedures, and other indicators of enforcement efforts may be considered, as well as the existence under the State law of any private right of action by aggrieved consumers.

The State of New York, through its Superintendent of Banks, applied to the Board for an exemption from the consigner provision of the Board's Credit Practices Rule.[2] Notice of the exemption request was published for public comment on October 24, 1986 (51 FR 37734). The comparable State law provisions that form the basis for New York's exemption request are contained in New York's General Obligation Law and New York's General Business Law.

In its October notice, the Board detailed, and requested comment on, the differences between the Board's rule and the relevant provisions of New York law. Very few comments were received on the exemption request. The commenters generally indicated the most of the relevant provisions of New York law provide a level of consumer protection that is either substantially equivalent to, or greater than, that provided by the Board's rule. In the Board's view, the differences between the Board's rule and New York law—with one exception noted below—are not substantial and therefore do not adversely affect New York's exemption request. Moreover, the Board finds that New York has demonstrated that is administers and enforces its laws effectively.

The relevant New York law does not cover extensions of credit over $25,000.[3] The Board's rule—like the FTC's Credit Practices Rule—protects all consumers against the use of certain creditor remedies that have been deemed fair or deceptive, regardless of the amount of the transaction. Consequently, the Board is granting the State of New York an exemption from the cosigner provision of the rule for transactions up to $25,000; transactions over $25,000 remain subject to the Board's rule. In order to accomplish the intended purpose of the rule—to provide protections in all consumer credit transactions—and at the same time relieve New York banks of the burden of complying with two different laws (State law for transactions up to $25,000 and Federal law for transactions over $25,000), the Board deems compliance with the relevant provisions of New York law for transactions over $25,000 to be in compliance with the Federal rule's requirements.

In accordance with the procedures established by the Board for taking exemption determinations (contained in Appendix B to Regulation Z, 12 CFR Part 226), the Board reserves the right to revoke an exemption if at any time it determines that the standards required for an exemption are not being met. A State that is granted an exemption must inform the Board within 30 days of any change in its relevant law or regulations. In addition, the State must file with the Board such periodic reports as the Board may require. The Board will inform the appropriate State official of any revisions in the Federal statute, regulations, interpretations, or enforcement policies that must be adopted by the State in the future, and will allow the State sufficient time to revise its laws and regulations in order for the State to maintain its exemption.

[1] Under sections 18(a)(1)(B) and 5(a)(1) of the Federal Trade Commission Act (FTC Act), the FTC is authorized to promulgate rules that define and prevent "unfair or deceptive acts or practices" in or affecting commerce with respect to extensions of credit to consumers. Section 18(f) of the FTC Act provides that whenever the FTC promulgates a rule prohibiting practices which it has deemed to be unfair or deceptive, the Board, with certain limited exceptions, must adopt a substantially similar rule prohibiting such practices by banks. The Federal Home Loan Bank Board (FHLBB) is also required under section 18(f) to adopt a rule substantially similar to that of the FTC for institutions that are members of the Federal Home Loan Bank System; the FHLBB did so in May 1985 (50 FR 19325), with its rule also taking effect on January 1, 1986.

[2] The State of New York submitted a similar application to the FTC, in order to obtain exemption from the cosigner provision of the FTC's Credit Practices Rule, § 444.3. A final determination by the FTC granting New York an exemption from the FTC's rule for transactions under $25,000 was published on August 7, 1986 (51 FR 28328 (1986)).

[3] New York law divides extensions of credit to consumers into two categories, consumer transactions (a loan or credit sale) and consumer accounts (open-end plans). Unless otherwise stated the words transaction or obligation, as used in this notice include both types of extensions of credit to consumers.

**(2) Order of Exemption**

The following sets forth the terms of the New York exemption.

*Order*

The State of New York has applied for an exemption from the cosigner provision of the Board's Credit Practices Rule which became effective January 1, 1986. Pursuant to § 227.16 of Regulation AA, the Board has determined that the relevant laws of this State are substantially equivalent to the Federal law and that the State administers and enforces its laws effectively. The Board hereby grants the exemption as follows:

Effective January 21, 1987, consumer credit transactions and consumer credit accounts under $25,000 that are subject to New York General Obligations Law section 15-702 and New York General Business Law section 349 are exempt from the cosigner provision of the Board's Credit Practices Rule, 12 CFR 227.14. Consumer credit transactions and accounts over $25,00 remain subject to the Board's Credit Practices Rule; however, compliance with the relevant provisions of the New York law will constitute compliance with the Board's rule. If the relevant New York law is amended to remove or increase the $25,000 limitation on consumer credit transactions and accounts the exemption will automatically extend to those transactions.

This exemption does not apply to transactions in which a federally chartered institution is a creditor.

By order of the Board of Governors of the Federal Reserve System, January 14, 1987.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 87-1201 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

### Small Business Size Standards; Modification of Size Standard To Make Existing Size Standards Compatible With the New Industrial Classification System; Correction

**AGENCY:** Small Business Administration (SBA).

**ACTION:** Emergency interim final rule; Correction.

**SUMMARY:** On January 6, 1987, SBA published an emergency interim final rule in the **Federal Register**, 52 FR 397, which modified its size standards to conform with the newly revised SIC system established by the Office of Management and Budget. This document corrects the size standards for SICs 4724 (Travel Agencies), 4725 (Tour Operators), and 4729 (Arrangement of Passenger Transportation, N.E.C.).

**FOR FURTHER INFORMATION CONTACT:** Harvey D. Bronstein, Acting Director, Size Standards Staff, (202) 653-6373.

**SUPPLEMENTARY INFORMATION:** On January 6, 1987, the SBA published an emergency interim final rule (52 FR 397) stating its size standards for industries which were revised or created effective January 1, 1987, by the U.S. Office of Management and Budget, Executive Office of the President. Inadvertently included in that emergency interim final rule were size standards of $0.5 million in commissions for three new industries (SIC 4724—Travel Agencies, SIC 4725—Tour Operators, and SIC-4729—Arrangement of Passenger Transportation, N.E.C.). These three industries were each components of former SIC-4722—Arrangement of Passenger Transportation, which had a size standard of $3.5 million in annual receipts.

The emergency interim final rule of January 6, 1987 (52 FR 397) was designed to establish equivalent size standards for the new SIC system. It was not the SBA's intent to initiate any substantive size standard changes; rather, the goal was to convert from the former SIC system to the new one. Accordingly, SIC's 4724, 4725, and 4729 should each have at this time a size standard of $3.5 million in annual receipts, rather than the size standard of $0.5 million in commissions which was published.

### PART 121—[CORRECTED]

The following corrections are made in FR Doc. 87-125 appearing on page 397 in the issue of January 6, 1987:

**§ 121.2 [Corrected]**

1. On page 402, the size standard column for each of 1987 SICs 4724, 4725, and 4729 reads "$0.5" preceded by a footnote "1". The size standard for each of 1987 SICs 4724, 4725, and 4729 is changed to read "$3.5" with no preceding footnote.

2. On page 403, Footnote following Major Group E—Transportation and Public Utilities—Continued, which reads "1 As measured by commissions" is deleted.

Dated: January 13, 1987.

**Charles L. Heatherly,**

*Deputy Administrator, Small Business Administration.*

[FR Doc. 87-1345 Filed 1-21-87; 8:45 am]

BILLING CODE 8025-01-M

## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 200

**[Release No. IC-15539]**

### Delegation of Authority to Director of Division of Investment Management

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rules relating to general organization and program management. The amendment will give delegated authority to the Director of the Division of Investment Management to exempt, for a period of up to 60 days, a person that has applied for exemption from the prohibition against serving or acting in specified capacities with respect to registered investment companies. This amendment should facilitate prompt, careful review and consideration of such emergency applications for exemption.

**EFFECTIVE DATE:** January 22, 1987.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth T. Tsai, Special Counsel, Office of Chief Counsel, Division of Investment Management, Securities and Exchange Commission, Mail Stop 5-2, 450 Fifth Street NW., Washington, DC 20549, (202) 272-2031.

**SUPPLEMENTARY INFORMATION:** Congress has authorized the Commission generally to delegate, by published order or rule, any of its functions as to any work, business, or matter, among others, to any of its divisions or employees.[1] One of the Commission's functions is, upon application, to grant or deny orders of exemption under section 9(c) [15 U.S.C. 80a-9(c) (1982)] of the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 *et seq.* (1982)], to persons who are ineligible, by reason of section 9(a) of the Act [15 U.S.C. 80a-9(a) (1982)],[2] to serve or act in the

[1] *See* Pub. L. 87-592, 76 Stat. 394, 15 U.S.C. 78d-1, 78d-2 (1982).

[2] Section 9(a) provides (the italicized language was added by the Government Securities Act of 1986, Pub. L. 99-571, and is effective July 25, 1987):

It shall be unlawful for any of the following persons to serve or act in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount certificate company.

(1) Any person who within 10 years has been convicted of any felony or misdemeanor involving the purchase or sale of any security or arising out of such person's conduct as an underwriter, broker, dealer, investment adviser, *municipal securities dealer, government securities broker, government*

Continued

capacities enumerated in section 9(a). The Commission may grant such applications, either unconditionally or on an appropriate temporary or other conditional basis, if it finds that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe or that the conduct of the applicant has been such as not to make it against the public interest or protection of investors to grant the application.[3] The Commission frequently grants temporary exemptions pending full-scale review and action upon applications for permanent exemption.[4] Emergency situations occasionally arise where applications under section 9(c) are filed as a result of court cases in which the Commission was not involved. Such applications are processed by the Division of Investment Management.

To expedite the processing of the above applications for temporary relief under section 9(c), the Commission has determined to give delegated authority to the Director of the Division of Investment Management to exempt applicants temporarily from section 9(a) for up to 60 days. This temporary relief will avoid undue disruption of services being rendered by applicants in appropriate cases pending staff review of and Commission action on applications for permanent exemption.

The delegated authority to be exercised by the Division Director will not include authority to extend a temporary exemption beyond 60 days, or to take final action on any such application. The Division Director may grant a temporary exemption if, on the basis of the facts then set forth in the application, it appears that:

(i)(a) The prohibitions of section 9(a), as applied to the applicant, may be unduly or disproportionately severe, or (b) the applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the temporary exemption; and

(ii) Granting the temporary exemption would protect the interests of the investment companies being served by the applicant by allowing time for the orderly consideration of the application for permanent relief or the orderly transition of the applicant's responsibilities to a successor, or both.

The Commission finds, in accordance with section 553(b)(A) of the Administrative Procedure Act [15 U.S.C. 553(b)(A)], that this amendment relates solely to agency organization, procedure, or practice and does not relate to a substantive rule. Accordingly, notice and opportunity for public comment are unnecessary, and publication of the amendment 30 days before its effective date is also unnecessary.

**List of Subjects in 17 CFR Part 200**

Administrative practice and procedure, Freedom of information, Privacy, Securities.

**Text of Amendment**

The Commission hereby amends Title 17, Chapter II of Code of Federal Regulations as follows:

## PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. The authority citation for Part 200 continues to read in part as follows: (Authority citations before * * * indicate general rulemaking authority)

**Authority:** Secs. 19, 23, 48, Stat. 85, 901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, sec. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 8a-37, 80b-11, unless otherwise noted. * * * § 200.30-5 is also issued under Pub. L. 91-567, 84 Stat. 1497 (15 U.S.C. 77c(a)(2)); Pub. L. 87-592, 76 Stat. 394, as amended by Pub. L. 94-29, 89 Stat. 163 (15 U.S.C. 78d-1, 78d-2); 15 U.S.C. 80a-44, 80b-11(a); secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 892, 894, 895, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), 1, 2, 3, 4, 5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat. 57; sec. 18, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1498-1500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54 Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 79t(a), 77sss(a), 80a-37; 15 U.S.C. 78d-1, 78d-2.

2. Section 200.30-5 is amended by adding paragraph (a)(8) to read as follows:

**§ 200.30-5 Delegation of Authority to Director of Division of Investment Management.**

* * * * *

(a) * * *

(8) To conditionally or unconditionally exempt persons, for a temporary period not exceeding 60 days, from section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)), if, on the basis of the facts then set forth in the application, it appears that:

(i)(A) The prohibitions of section 9(a), as applied to the applicant, may be unduly or disproportionately severe, or (B) the applicant's conduct has been such as not to make it against the public interest or the protection of investors to grant the temporary exemption; and (ii) granting the temporary exemption would protect the interests of the investment companies being served by the applicant by allowing time for the orderly consideration of the application for permanent relief or the orderly transition of the applicant's responsibilities to a successor, or both.

* * * * *

By the Commission.

**Jonathan G. Katz,**

*Secretary.*

January 15, 1987.

[FR Doc. 87-1371 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

---

*securities dealer, or entity or person required to be registered under the Commodity Exchange Act,* or as an affiliated person, salesman, or employee of any investment company, bank insurance company, *or entity or person required to be registered under the Commodity Exchange Act:*

(2) Any person who, by reason of misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an underwriter, broker, dealer, investment adviser, *municipal securities dealer, government securities broker, government securities dealer, or entity or person required to be registered under the Commodity Exchange Act, or as an affiliated person, salesman, or employee of any investment company, bank insurance company, or entity or person required to be registered under the Commodity Exchange Act,* or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security; or

(3) A company any affiliated person of which is ineligible, by reason of paragraph (1) or (2), to serve or act in the foregoing capacities.

For the purposes of paragraphs (1), (2), and (3) of the subsection, the term "investment adviser" shall include an investment adviser as defined in [the Investment Advisers Act of 1940].

[3] 15 U.S.C. 80a-9(c) (1982).

[4] *See, e.g.*, E. F. Hutton & Co., Investment Company Act Release No. 14499 (May 2, 1985), where the Commission granted a temporary order expiring on the earlier of a specified date or final Commission action on the application for exemption.

---

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 271

**[Docket No. RM79-76-250 (Texas-9 Addition II); Order No. 450]**

## High-Cost Gas Produced From Tight Formations; Order Granting Rehearing, Vacating Order No. 450 and Establishing Procedures

Issued: January 9, 1987.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order granting rehearing, vacating Order No. 450 and establishing procedures.

**SUMMARY:** Under section 107(c)(5) of the Natural Gas Policy Act of 1978, the

Federal Energy Regulatory Commission designates certain types of natural gas as high-cost gas. High-cost gas is produced under conditions which present extraordinary risks or costs and once designated may receive an incentive price. Under section 107(c)(5), the Commission issued a rule designating natural gas produced from tight formations as high-cost gas. Jurisdictional agencies may submit recommendations of areas for designation as tight formations. Here, the Federal Energy Regulatory Commission grants the rehearing request filed by Delhi Gas Pipeline Corporation on June 19, 1986, vacates Order No. 450 and establishes procedures for a hearing to consider additional evidence and arguments offered by persons permitted to intervene in this proceeding. The recommendation of the Railroad Commission of Texas that the Travis Peak Formation, located in Districts 5 and 6 of the State of Texas, be designated as a tight formation under § 271.703(d), will then be reconsidered by the Commission.

**EFFECTIVE DATE:** This order is effective January 9, 1987.

**FOR FURTHER INFORMATION CONTACT:** Roland Frye, (202) 357–8315; Walter W. Lawson, (202) 357–8737.

## Order Granting Rehearing, Vacating Order No. 450 and Establishing Procedures

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt and C. M. Naeve; Docket No. RM79–76–250.

Issued: January 9, 1987.

On November 2, 1981, the Federal Energy Regulatory Commission (Commission) received a recommendation from the Railroad Commission of Texas (Texas) that the Travis Peak Formation (Travis Peak) be designated as a tight formation.[1] Travis Peak underlies 47 counties in Northeastern Texas. The Commission issued a notice of Texas' recommendation on December 15, 1981.[2] The Texas recommendation included coded well locations for proprietary purposes, but nevertheless specified their permeability and flow rates. By letter dated January 22, 1982, Commission staff informed Texas that the data submitted in support of the recommendation did not satisfy the permeability and flow rate requirements set forth in the Commission's regulations.[3] On September 19, 1983, Texas submitted an amended recommendation. The Commission issued a notice of the amended recommendation on November 14, 1983.[4] In its amended recommendation, Texas continued to request that the entire Travis Peak be designated as a tight formation. However, Texas suggested as an alternative that the top 200 feet of the formation penetrated by 45 specific gas wells be excluded from the recommended area, as well as all oil wells producing in the area. Texas' amended recommendation contained no new data and continued to list all wells by code number for proprietary reasons.[5] Review of the amended recommendation revealed that the formation's average permeability and stabilized natural gas flow rate still exceeded the permissible levels.

On December 13, 1983, the Commission staff met with the Texas staff in an effort to resolve problems with the amended recommendation. Because Texas' original and amended recommendation did not show well locations within Travis Peak for proprietary reasons, the Commission staff could not determine whether the non-qualifying wells were scattered throughout Travis Peak or were concentrated in certain fields or areas of close proximity. If the non-qualifying wells were scattered throughout Travis Peak, then Texas' amended recommendation would have to be denied. Such a wide dispersion of high permeability or high flow rate wells would not enable the Commission staff to carve out non-qualifying areas. Moreover, such a scattered dispersion would tend to indicate that the formation should not be designated as a tight formation. On the other hand, if the non-qualifying wells were in close proximity and confined to a identifiable field or area, the Commission could exclude that area of the recommendation so that the remaining portion could qualify as a tight formation.

To facilitate Commission consideration of Texas' amended recommendation, Texas Oil and Gas (TXO) provided the proprietary data necessary to identify the location of wells in Travis Peak.[6] Review of the data submitted by TXO revealed that a large number of high permeability and high flow rate wells are located in the Bethany field and the Carthage field, both located in Panola County. Specifically, 31 of 44 wells in the Bethany field and 46 of the 65 wells in the Carthage field exceed the permeability and/or flow rate guidelines. These two fields thus represent "sweet spots" within the area recommended by Texas as a tight formation. Further analysis revealed that 31 additional gas wells have very high permeability values or high pre-stimulated flow rates and, only if these wells were excluded, could the remaining area be considered to possibly fall within Commission guidelines.

On December 6, 1985, Commission staff notified Texas that it proposed to exclude the above-identified sweet spots and wells from the recommended area. Texas replied by letter dated January 7, 1986, that the proprietary data supplied by TXO and analyzed by the Commission staff was never filed with Texas. Texas refused to support any designation which would exclude any areas and/or wells from the area originally recommended.

Based on the data submitted by TXO, the Commission on May 23, 1986, issued Order No. 450[7] which modified and adopted the recommendation of Texas that Travis Peak be designated as a tight formation under section 107(c)(5) of the NGPA, but excluded the sweet spots from the designation. On June 19, 1986, Delhi Gas Pipeline Corporation (Delhi)[8] filed an application for rehearing. The Commission on July 21, 1986, granted rehearing for the purpose of further consideration.

On October 6, 1986, Delhi filed supplemental information to its application for rehearing and requested reopening of the record for the purpose of receiving additional evidence. The supplemental information consisted of a preliminary analysis by Delhi of certain

[1] 18 CFR 271.703(c)(2)(i) (1986); *see also* 15 U.S.C. 3317(c)(1986) (to encourage exploration for high-cost natural gas, Congress in the Natural Gas Policy Act of 1978 (NGPA) provided authority to the Commission to establish incentive prices for certain classifications of high-cost gas).

[2] 46 FR 62086 (December 22, 1981).

[3] 18 CFR 271.703(c)(2).

[4] 48 FR 52482 (Nov. 18, 1983). Champlin Petroleum Company and Crystal Oil Company filed comments in support of the amended recommendation. No party requested a hearing and the Commission held no hearing.

[5] Texas also stated that the average permeability should be based on a geometric mean rather than an arithmetic average. However, the Commission has consistently calculated formations' average permeability by arithmetically averaging representative permeability values, and Texas has presented no reasons for changing this established practice.

[6] In a May 22, 1986 letter to the Commission, TXO stated that the proprietary data was coded by Core Laboratories Inc., which assured TXO by letter dated January 5, 1981, that the data would remain confidential. TXO's letter also stated that TXO coordinated the industry effort to arrange for and finance the Core Laboratories study.

[7] Docket No. RM79–76–090, 51 FR 19164 (May 28, 1986), III FERC Stats. & Regs. ¶ 30,698.

[8] Delhi is a subsidiary of TXO.

post-1980 Travis Peak completions in addition to recent data published by the Gas Research Institute on the Travis Peak formation. Delhi complained that the Texas recommendation, which was modified and adopted by the Commission, contained only stale information limited to fewer than half of the wells drilled into the formation. The data in the studies submitted by Delhi suggest that the average permeability and flow rates in Travis Peak may exceed the maximum permissible level for the formation to qualify as a tight formation under the Commission's regulations.[9]

On November 10, 1986, Texas Crude Inc. (Texas Crude) filed an answer to Delhi's petition to supplement its rehearing application. Among other claims, Texas Crude argues that Delhi has no right to supplement the record, that Order No. 450 is supported by subtantial evidence in the record, and that Delhi's data is not reliable. Consequently, Texas Crude requests that Delhi's petition to supplement the record be dismissed.

The Commissions regulations provide that tight formations will be approved provided that the recommendation meets, among other things, the following guidelines:

(A) The estimated average in situ gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less.

(B) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed [certain specified] production rate[s] . . . .

(C) No well drilled into the recommended tight formation is expected to produce, without stimulation, more than five barrels of crude oil per day.[10]

The Texas recommendation, as modified by the Commission, appeared to satisfy the above guidelines. Consequently, we issued Order No. 450 based on the information available at that time. As previously noted, Delhi has filed supplemental information and requested an opportunity to submit additional evidence which it alleges will prove that the Travis Peak is not a tight formation.

The Commission believes that Delhi's supplemental information and additional evidence are relevant and probative on the issue of whether Travis Peak should be designated a tight formation.[11] In addition, we note that the Commission's decision in Order No. 450 required deletion of certain areas because of permeability and flow rates in excess of those permitted. The allegations made by Delhi, if proven, would mean that permeability and flow rates in excess of those permitted are even more widespread in the Travis Peak. Accordingly, Delhi's request for rehearing will be granted.

Delhi's request to reopen the record in this proceeding for the purpose of permitting supplementation with additional data is also granted. The Commission believes that review of Delhi's supplemental data, as well as other information which may be submitted, is in the public interest in order to assure that full and fair consideration can be given to all relevant evidence in this matter so that existing disputes as to material facts may be resolved. The Commission encourages any person having an interest which may be affected by the outcome of this proceeding to file a motion to intervene pursuant to Commission Rule 214.[12] All timely unopposed motions to intervene will be granted.[13] The Secretary will be instructed to issue a Notice of Formal Hearing, to be published in the **Federal Register.** The notice will describe the factual and procedural history of this proceeding, the issue presented, and the procedural requirements to be followed by persons seeking to intervene. The Commission also instructs the Chief Administrative Law Judge to designate a presiding administrative law judge to conduct the formal hearing on an expedited basis. The presiding administrative law judge should allow each party the maximum degree of participation permitted under the Commission's procedural regulations in order to bring out all relevant information regarding the character of the Travis Peak formation. Specifically, the Commission intends that the presiding administrative law judge allow each party to submit whatever permeability and production data it believes supports its position on the issue of the qualification of Travis Peak as a tight formation.[14] The presiding administrative law judge should also allow all parties to respond to each others' positions and supporting data.

In setting the matter for formal hearing, the Commission emphasizes that it is the unique circumstances of this case which warrant such procedures. This matter has been pending since November 1981. Issues of material fact which form the very basis of this determination are still in dispute. Given our conclusion that still further proceedings are necessary and given that the affected producers have already waited over five years for a Commission ruling on Texas' recommendation, we believe that the long pendency of this case justifies the procedures adopted in this order. However, the Commission considers the procedural approach adopted here to be limited to the facts of this case and not to constitute precedent for setting future tight formation rulemaking proceedings for a hearing before an administrative law judge.

We also vacate Order No. 450.[15] In this connection, the Commission notes that Texas' recommendation in Docket No. RM79–76–196 (Texas-9 Addition V) was terminated as moot because the Pinehill Field was included in the area designated by Order No. 450. In view of our action herein, the status of Texas' recommendation concerning the Pinehill Field will be addressed after completion of Commission action herein.

*The Commission Orders:*

(A) Delhi's application for rehearing is granted and the record in this proceeding is reopened.

(B) Pursuant to the authority under the Natural Gas Policy Act of 1978 and Commission's rules and regulations, a public hearing shall be held concerning whether in light of additional evidence to be submitted by interested parties Travis Peak should be designated as a tight formation.

(C) The Secretary of the Commission shall issue a Notice of Formal Hearing, describing the history and issue in this proceeding and the applicable procedures for intervention.

(D) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 375.304), shall convene a prehearing conference in this proceeding to be held in a hearing room

[9] 18 CFR 271.703(c)(2) (1986) (the Commission's regulations provide that a formation may be designated as a tight formation if the recommended areas' estimated average in situ permeability does not exceed 0.1 millidarcy).

[10] 18 CFR 271.703(c)(2)(i)(A) through (C) (1986).

[11] *See* Order Remanding Jurisdictional Agency Recommendation for Tight Formation Designation (Montana 1), 23 FERC ¶ 61,047 at 61,117 (1983) wherein the Commission stated that it "is not limited by the evidence in the record presented to it by the jurisdictional agency and the various commenters and accordingly is free to request or to develope any additional evidence which it deems necessary in order for it to issue a rule in a tight formation designation proceeding."

[12] 18 CFR 385.214 (1986).

[13] 18 CFR 385.214(a) (1986).

[14] *See* 18 CFR 271.703(c)(2) (1986).

[15] The Commission is aware that a number of travis Peak well determinations have become final under 18 CFR 275.202(a) (1986). Those well determinations will be addressed in a separate order.

of the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426. The presiding judge is authorized to establish any procedural dates necessary for the hearing and is also authorized to conduct further proceedings in accordance with this order and the Commission's Rules of Practice and Procedure.

(E) The presiding judge shall entertain motions to intervene by any interested person and permit the filing of comments on Delhi's evidence as well as the filing of any other relevant evidence.

(F) Order No. 450 is hereby vacated and accordingly in consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below.

**List of Subjects in 18 CFR Part 271**

Natural gas, Incentive price, Tight formations.

By the Commission. Commissioner Trabandt concurred with a separate statement attached.

**Lois D. Cashell,**

*Acting Secretary.*

## PART 271—[AMENDED]

1. The authority citation for Part 271 continues to read as follows:

**Authority:** Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

**§ 271.703 [Amended]**

2. Section 271.703 is amended by removing paragraph (d)(36)(v).

Issued: January 9, 1987.

**Concurring Opinion of Commissioner Charles A. Trabandt**

I concur in this Order with several reservations, which I trust will be addressed in the remand of this case and subsequent action by the Commission in this docket. First, I could not support an action here, which as a matter of procedure had the probable or unavoidable substantive result of favoring one party, Delhi, in the ultimate disposition of the designation of the tight formation. Delhi is an affiliate of TXO, the original applicant for the tight formation designation that was recommended by the Railroad Commission of Texas. Delhi, despite that affiliation with the original applicant, now has urged on rehearing that the determination be reversed, and it provided supplemental information which has persuaded the Commission to vacate our previous Order No. 450 and remand the case to a FERC public hearing before a FERC ALJ. In effect, it would appear that the original corporate proponents of a tight formation designation have reversed position as a result of intervening events and changed circumstances since the original application. Consequently, it is not completely clear how the further proceedings in this Commission will unfold as to the proponents, including possibly the Railroad Commission and TXO, and opponents now, including Delhi, of the original designation and the respective procedural burdens under FERC regulations in a new and unprecedented FERC formal hearing. Thus, our action here is vacating Order No. 450 and remanding to a FERC proceeding raises serious concerns about the potential impact of our action on the substantive result in this case.

The action of the Commission here to remand a tight formation determination to a FERC proceeding before a FERC ALJ is unprecedented. In the past, we have remanded such cases, in our discretion, on two occasions to the jurisdictional agency of the individual state for further proceedings in light of inconclusive or additional information.[1] In this case, the Railroad Commission of Texas in a letter of November 25, 1986, signed by the three Commissioners urged us to deny Delhi's request for rehearing of Order No. 450. This Commission on the basis of that letter has concluded that a remand to the Railroad Commission is not appropriate and a formal FERC proceeding would be preferable. The Commission's conclusion here could establish the unfortunate precedent and practice that controversial decisions involving over a thousand wells, several hundred producers and millions of dollars, such as this case, could be avoided by state jurisdictional agencies and removed *de facto* to this Commission by their submission to the Commission of a similar letter. This unprecedented use of a formal FERC proceeding, rather than remand to the Railroad Commission, for a tight formation case, in part, adds to several concerns about the procedural and substantive impact on the Texas parties in this case.

In brief, those concerns include the nature of the issues on remand. For example, will the hearing focus more narrowly on the supplemental information submitted by Delhi or will the proceedings address any issues relevant to the tight formation designation? Should the proceedings be scheduled in Texas, to minimize expense and travel difficulties for all interested parties, including those supporting the designation under Order No. 450, now vacated? Would the proceedings utilize the FERC formal evidentiary rules and procedures or any additional informality which may exist under applicable rules and practice of the Railroad Commission? Will all interested parties be allowed to participate on a formal or informal basis to the same extent they would have been able to do so under applicable Railroad Commission procedures? Will formal intervenor status be available and/or required for all interested parties? Will Texas parties be required as a practical matter to retain new Washington, DC, counsel for the remanded FERC proceedings and advance a whole new substantive case under FERC rules and practices (because we vacated Order No. 450), with the potential result that the cost-prohibitive impact of such a requirement leads to severely constrained representation or even withdrawal of any interested parties? Will the unprecedented nature of the remanded proceedings here, rather than at the Railroad Commission, lead to a series of new procedural issues of first impression and interlocutory appeals before the Commission? What will be the financial impact of any significant additional delay on various parties should the FERC proceeding become entangled in such procedural issues on remand and in subsequent Commission action? Is the Commission as a result being unavoidably drawn into a highly controversial case with potential negative procedural, and even substantive, impact on Texas parties supporting the designation as a tight formation?

I am encouraged that the Order has been modified as a result of our deliberations at the December 17, 1986, Commission meeting to attempt to address certain of these concerns. The Order at pages 7 and 8 now encourages formal intervention by any interested person in the proceeding, instructs the Secretary to issue a formal notice of the proceedings published in the **Federal Register**, and provides guidance to the ALJ to allow, to the extent FERC procedural regulations would provide, maximum participation by parties, including submission of any permeability and production data and response to other parties, in order to obtain all relevant information regarding the Travis Peak Formation. The Order also now expressly states at page 8 that this action does not constitute a precedent for handling future tight formation rulemaking cases. I would have preferred that the Order additionally specify that the hearing be held in Austin, Texas, as the most appropriate way to develop the further record in this proceeding, since the jurisdictional agency proceedings have been and would normally be held there. I also would have preferred stronger guidance to the ALJ to parallel wherever possible under applicable FERC regulations the procedures and practices that otherwise would have obtained in a remanded proceeding at the Railroad Commission. We would provide better assurance of maximum access and opportunity for the full participation and information of all interested parties located in Texas.

These concerns will require final resolution as we proceed in this case. I have concurred in this Order in the anticipation that the Commission will be able to fashion a fair and

[1] Docket No. RM79–76–098 (Montana–1), issued April 7, 1983, 23 FERC ¶ 61,047; Docket No RM79–76–107 (Kansas–1), issued May 22, 1985, 31 FERC ¶ 61,210. *See*, also, Docket Nos. RM79–76–136 (Utah–5) and RM79–76–137 (Utah–5), issued September 27, 1985, 32 FERC ¶ 61,430, where the State of Utah's Board of Oil, Gas and Mining held additional public hearings in Utah in response to Commission staff recommendations to consider additional comments and data in support of and against the proposed tight formation designation.

balanced procedural approach in resolving these issues.

Charles A. Trabandt,

*Commissioner.*

[FR Doc. 87-987 Filed 1-21-87; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### 31 CFR Part 210

### Federal Payments Made Through Financial Institutions by the Automated Clearing House Method

**AGENCY:** Financial Management Service, Fiscal Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** There are three reasons for this revision of 31 CFR Part 210, which defines the responsibilities and liabilities of the Federal Government, Federal Reserve Banks, financial institutions, and recipients participating in the Automated Clearing House (ACH) payment system. First, changes regarding the enrollment procedure are made to allow the United States Department of the Treasury (hereafter referred to as Treasury) to devise, test, and implement creative and innovative means of enrollment while improving the Direct Deposit/Electronic Funds Transfer (DD/EFT) system's flexibility. Second, the problem of fraud in the Direct Deposit Program is addressed. Finally, the overall clarity and arrangement of the regulation are improved.

**EFFECTIVE DATE:** February 23, 1987.

**FOR FURTHER INFORMATION CONTACT:** Christine Ricci, Policy Research Branch, Financial Management Service, U.S. Department of the Treasury, Room 226, Treasury Annex, Washington, DC 20226, (202) 535-6328.

**SUPPLEMENTARY INFORMATION:** On January 22, 1986 (51 FR 2899), Treasury published a Notice of Proposed Rulemaking (that was republished in its entirety on February 5, 1986, (51 FR 4508) because of typesetting errors) proposing a number of revisions to the regulation in Part 210 of Title 31 of the Code of Federal Regulations which governs the Direct Deposit of Federal recurring payments by means other than by check (EFT). These changes are being adopted with some revisions suggested by the organizations that commented on the Notice of Proposed Rulemaking. The regulation in this part was promulgated in 1975, with amendments in 1976, 1984, and 1985. With this revision, the coverage of the regulation is expanded to include changes designed to meet increased utilization of the ACH method for Federal payments.

This regulation is amended to make it clearer and more understandable, as well as to make it more flexible so as to allow for future innovations in technology and payment methods. Thus, the phrase in the title of Part 210 referring to payment "by means other than by check" is changed to payments "by the Automated Clearing House method." While the ACH method is presently used only for recurring payments, the word "recurring" is eliminated to allow for the use of this method in the future for non-recurring payments, as well. The authority citation is also updated. Sections 210.1 through 210.8 plus § 210.13, which are applicable to both benefit and non-benefit payments, are grouped together as Subpart A. They also are rearranged and renumbered. Minor changes are made to §§ 210.9 through 210.12, which relate only to benefit payments, and they are renumbered and labeled Subpart B.

A number of new definitions are now in this revised regulation. "Automated Clearing House" refers to a payment mechanism through which participating institutions exchange funds electronically. "Benefit payment" is a payment of money for any Federal Government entitlement program or annuity, either one-time or recurring. New definitions are provided also for "Federal Reserve Bank," and "financial institution." Definitions of "Government," "recurring payment," and "Standard Authorization Form" are eliminated.

The revised regulation replaces the term "credit payment" with two terms: "payment" and "payment instruction." The phrase "credit payment" was not only unclear, but was used in two different senses in the previous regulation. The Financial Management Service believes that this created needless confusion in interpreting the regulation. Accordingly, the term "credit payment" is replaced throughout these rules by either "payment" or "payment instruction," as the context dictates. "Payment" is used in its most commonly accepted sense to mean the transfer of a sum of money, while "payment instruction" means an order for the payment of money, including the information necessary to make the indicated payment.

Changes in § 210.4 on recipients are designed to improve the system's flexibility as well as simplify the enrollment process for recipients of Federal payments. These revisions are adopted with the understanding that enrollment products will be developed in consultation with affected parties which include, but are not limited to, the Financial Management Service and program agencies.

The revised regulation deletes § 210.5 on program agencies, as it is unneccessary, while a new § 210.3 is added to state the policy for making payments by the ACH method.

A new § 210.10 on fraud is added. Paragraph (a) references the liabilities which are imposed by the False Claims Act, 31 U.S.C. 3729 *et seq.*, for the submission of false claims or falsified documents in support of such claims, and also references applicable criminal statutes and common law remedies. This section is intended to apply to falsified enrollments, as well as to such activities as the initiation of an improper ACH payment by an employee of the Federal Government, or the diversion of a properly authorized payment by employees of the Federal Government, Federal Reserve Banks, or financial institutions to their own bank account or the account of another. The revised regulation adds and expands former § 210.9(g) to this section and designates it paragraph (b).

Numerous non-substantive changes in wording are made throughout this revised regulation to achieve greater clarity and precision.

The changes and new procedures will be published as amendments to the Financial Management Service's Green Book on Direct Deposit.

Eighteen comments were received pertaining to the Notice of Proposed Rulemaking on 31 CFR Part 210 published on February 5, 1986. Eight comments were from financial institutions or financial institution associations, four were from automated clearing house associations, five were from Federal Government agencies, one was from a state government agency, and one was from the Federal Reserve.

A number of comments were received which pertained to the specific regulatory changes proposed in the draft regulation, however, many of the comments addressed the general provisions, policies, and operations of the Government's ACH system. These general provisions, policies, and operations are the object of ongoing evaluation within Treasury. Some of them, such as the direct utilization by Federal agencies of private sector ACHs and prenotification, may be considered in future revisions of 32 CFR Part 210. In regard to enrollment procedures, the aim of this rule is to encourage alternative, simpler, more flexible enrollment. This does not mean, as some commenters

assumed, that current enrollment procedures are being abandoned.

In response to the comments directly pertaining to the rule and to clarify certain provisions, the following amendments to the proposal are being incorporated into the final regulation:

(1) One commenter stated that the definition of ACH in § 210.2(b) should not include entities other than the Federal Reserve Bank to preclude the possiblity that the Federal Reserve Bank's limited liability would extend to private sector processors. Treasury does not concur with this interpretation, since § 210.6(f) makes it very clear that the limited liability applies only to the Federal Reserve Bank. However, since the term ACH is used to describe a payment mechanism, and not identify processors, Treasury believes it is unnecessary to have references to processing entities in the definition. Accordingly, the definition of ACH is revised to read as follows: "'Automated Clearing House' means a payment mechanism through which participating institutions exchange funds electronically."

(2) The definition of "payment" at § 210.2(h) is clarified and expanded by adding: "A payment includes any Federal Government benefit, annuity, or other payment (or allotment therefrom), including any payment of salary, wages, or pay and allowances."

(3) Section 210.3 was misinterpreted by some commenters to suggest that it was mandatory for all Federal Government payments to be made by the ACH method unless Treasury determines that conditions exist that make payment by check or other means more appropriate. The section is clarified by stating that, "Once an ACH enrollment has been completed, all payments covered by that enrollment shall be made by the ACH method unless [Treasury] determines that conditions exists that make payment by check or other means more appropriate."

(4) Because changes in enrollment are covered elsewhere in the regulation, and to clarify to whom requests for termination should be directed, § 210.4(c)(1) now reads as follows: "A request from the recipient to the program agency to terminate the enrollment."

(5) Commenters said the last sentence of § 210.4(c) appears to be addressed to financial institutions as well as recipients. We are clarifying this section by changing the last sentence to read as follows: "Upon the occurrence of any of the foregoing events, except the death of the recipients or beneficiary, the recipient or representative payee shall execute a new enrollment before further payments may be credited to that account."

(6) In the interest of precision, "part" is changed to "section" in § 210.6(f).

(7) To allow for a notice period shorter than the 30-day requirement for termination of enrollement by financial institutions due to fraud, the following sentence is added to § 210.7(c): "However, terminations for reasons of fraud shall be effective immediately."

(8) Because financial institutions normally do not monitor names on recipients' accounts, the following is deleted from § 210.7(d): "(e.g., the account number and recipient's name do not agree with the financial institution's records)."

(9) In the interest of precision and to eliminate the inconsistency among §§ 210.7(f), 210.12(b)(1), and 210.12(e), "promptly" is changed to "immediately" in § 210.7(f).

(10) Because it is agreed that financial institutions should not be liable under § 210.7(f) for returning payments until they have received notice of termination from a program agency, the reference to § 210.4(c)(1) is deleted from § 210.7(f)(2).

(11) To make § 210.7(i) consistent with § 210.10(b), the last sentence of § 210.7(i) is changed to read as follows: "Except as provided in this section, §§ 210.10(b) and 210.11, a financial institution shall not be liable under this part to any party for its handling of a payment."

(12) To clarify that § 210.10 covers any payment made under this part, the term "benefit" is deleted from § 210.10(b).

(13) To make new § 210.10(b) consistent with current § 210.11(f), § 210.10(b) is clarified and expended by adding at the end of the third sentence, "except for the case where the beneficiary was deceased at the time the recipient executed the enrollment and if the financial institution had no knowledge of the beneficiary's death."

(14) To make the first sentence of § 210.11(a) consistent with § 210.11(f), the following phrase is added to the end of the first sentence, "except as provided in paragraph (f) of this section."

In addition to the above changes, Treasury decided to delete the term "form" from references to the Notice of Reclamation form (which includes the Notice to Account Owners) and to substitute "Notice of Reclamation" where the term "form" is used to refer to the Notice of Reclamation throughout the regulation. While reclamations may still be handled by paper means, this change allows for future processing of reclamations by electronic means. We do not consider this a substantive change.

Treasury has determined that this is not a major rule as defined by Executive Order 12291. Accordingly, a regulatory impact analysis is not required. It is hereby certified pursuant to the Regulatory Flexibility Act that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Act analysis is not required.

**List of Subjects in 31 CFR Part 210**

Automated clearing house, Banks, Banking, Electronic funds transfer, Federal Reserve System.

For the reasons set out in the preamble, Part 210 of Chapter II of Title 31 of the Code of Federal Regulations is revised to read as follows:

## PART 210—FEDERAL PAYMENTS THROUGH FINANCIAL INSTITUTIONS BY THE AUTOMATED CLEARING HOUSE METHOD

**Subpart A—General**

Sec.

210.1 Scope of regulations.
210.2 Definitions.
210.3 Policy for payments by the Automated Clearing House method.
210.4 Recipients.
210.5 The Federal Government.
210.6 Federal Reserve Banks.
210.7 Financial institutions.
210.8 Timeliness of action.
210.9 Liability of, and acquittance to, the United States.
210.10 Fraud.

**Subpart B—Repayment of Benefit Payments**

Sec.

210.11 Death or legal incapacity of recipients or death of beneficiaries.
210.12 Collection procedures.
210.13 Notice to Account Owners of collection action.
210.14 Erroneous death information.

**Authority:** 12 U.S.C. 391; 31 U.S.C. 321 and other provisions of law.

### Subpart A—General

#### § 210.1 Scope of regulations.

This part governs Federal Government payments made by the automated clearing house (ACH) method through Federal Reserve Banks and financial institutions, to recipients maintaining accounts at these financial institutions. It describes the procedures to be used, defines the obligations and responsibilities of the participants in ACH payments, and states terms of a contract between the Federal Government and those participants. It also prescribes the liabilities of financial institutions to the Federal Government arising from payments to deceased or

incompetent recipients, and deceased beneficiaries, of Federal benefit payments. Regulations promulgated by the Bureau of the Public Debt governing TREASURY DIRECT payments made by the ACH method for principal and interest on Government securities can be found at Part 357 of this title.

**§ 210.2 Definitions.**

As used in this part, unless the context otherwise requires:

(a) "Account," "recipient's account," "designated account" and "appropriate account" mean the account specified by a recipient or beneficiary into which payments under this part shall be deposited. These terms also include an account on which the financial institutions has, after execution of an enrollment, made changes to the account number of the type of account as authorized by § 210.4(f).

(b) "Automated Clearing House" (ACH) means a payment mechanism through which participating institutions exchange funds electronically.

(c) "Beneficiary" means a person other than a recipient who is entitled to receive the benefit of all or part of a benefit payment from the Federal Government.

(d) "Benefit Payment" is a payment of money for any Federal Government entitlement program or annuity. It can be either a one-time or recurring payment. These payments include, but are not limited to, the following nine:

(1) Social Security.
(2) Supplemental Security Income.
(3) Black Lung.
(4) Civil Service Retirement.
(5) Railroad Retirement Board Retirement/Annuity.
(6) Veterans Administration Compensation/Pension.
(7) Central Intelligence Agency Annuity.
(8) Military Retirement Annuity.
(9) Cost Guard Retirement.

(e) "Federal Reserve Bank" means any Federal Reserve District Head Office, branch, or regional check processing center that processes ACH payments for the Federal Government.

(f) "Financial Institution" means any bank, savings bank, savings and loan association, credit union, or similar institution.

(g) "Outstanding Total" means the sum of all benefit payments received pursuant to an enrollment, after death or legal incapacity, minus any amount returned to or recovered by the Federal Government.

(h) "Payment" means a sum of money which is transferred to a recipient in satisfaction of an obligation. A payment includes any Federal Government benefit, annuity, or other payment (or allotment therefrom), including any payment of salary, wages, or pay and allowances.

(i) "Payment Date" means the date specified in the payment instruction for a payment. It is the date on which the funds specified in the payment instruction are to be available for withdrawal from the recipient's account with the financial institution specified by the recipient, and on which the funds are to be made available to the financial institution by the Federal Reserve Bank with which the financial institution maintains or utilizes an account. If the payment date is not a business day for the financial institution receiving a payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

(j) "Payment Instruction" means an order issued by the Federal Government for the payment of money under this part. A payment instruction may be contained on:

(1) A letter, memorandum, telegram, computer printout or similar writing, or

(2) Any form of nonverbal communication, reguistered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used to electronically communicate messages.

(k) "Program Agency" means an agency of the Federal Government responsible for determining and initiating a payment to be made, and includes any department, agency, independent establishment, board, office, commission, or other establishment in the executive, legislative, or judicial branches of the Federal Government and any wholly-owned or -controlled Federal Government corporation.

(l) "Recipient" means a person authorized by a program agency to receive payments from the Federal Government. Recipient includes a person named by a program agency to receive benefit payments for a beneficiary.

**§ 210.3 Policy for payments by the Automated Clearing House method.**

Once an ACH enrollment has been completed, all payments covered by that enrollment shall be made by the ACH method unless the United States Department of the Treasury (hereafter referred to as Treasury) determines that conditions exist that make payment by check or other means more appropriate.

**§ 210.4 Recipients.**

(a) In order for a recipient to receive a payment by the ACH method, the recipient shall designate the desired financial institution and account identification at that financial institution using an enrollment procedure prescribed by the Financial Management Service for such payments. The title of the account so designated shall include the name of the recipient.

(b) In executing an enrollment, a recipient:

(1) Agrees to the provisions of this part; and

(2) Authorizes the termination of any inconsistent previously executed enrollment or inconsistent payment instructions.

(c) Once an ACH enrollment has been effected, it shall remain in effect until it is terminated by one of the following events:

(1) A request from the recipient to the program agency to terminate the enrollment;

(2) A change in the title of an account which removes the name of the recipient, removes or adds the name of a beneficiary, or alters the interest of the beneficiary;

(3) The death or legal incapacity of a recipient, or the death of the beneficiary of a benefit payment; or

(4) The closing of the account.

Upon the occurrence of any of the foregoing events, except the death of the recipient or beneficiary, the recipient or representative payee shall execute a new enrollment before further payments may be credited to that account.

(d) A recipient who wishes to change the account or financial institution to which payment is directed shall execute a new enrollment.

(e) A recipient of a benefit payment made under this part may request only that the full amount of the payment be credited to one account on the books of a financial institution. Except as authorized by law or other regulations, the procedures set forth in this part shall not be used to effect an assignment of a payment.

(f) A financial institution may change the account numbers or, at the request of the recipient, the type of the recipient's account without executing a new enrollment provided no change is made to the title of the account or the interest of the recipient or beneficiary in the account. These changes must be communicated to the appropriate program agency or agencies in accordance with implementing instructions issued by the Federal Government.

**§ 210.5 The Federal Government.**

(a) The Federal agencies that perform disbursing functions will, in accordance with the provisions of this part, issue and direct payment instructions to the Federal Reserve Bank on whose books the financial institution named therein maintains or utilizes an account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this part.

(b) Procedural instructions will be issued by the Financial Management Service for the guidance of program agencies, Federal agencies that perform disbursing functions, Federal Reserve Banks, and financial institutions in the implementation of these regulations.

**§ 210.6 Federal Reserve Banks.**

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive payment instructions from the Federal Government and shall make available and pay to financial institutions amounts specified in these payment instructions, and shall otherwise carry out the procedures and conduct the operations contemplated under this part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this part, governing the details of its handling of payments under this part and containing such provisions as are required and permitted by this part.

(b) The Federal Government by its action of issuing and sending any payment instruction contained in the media specified in § 210.2(k) shall be deemed to authorize the Federal Reserve Banks to:

(1) Pay the amount specified in the payment instruction to the debit of the general account of the Treasury on the payment date; and

(2) Handle and act upon the payment instruction.

(c) Upon receipt of a payment instruction, a Federal Reserve Bank shall, if the payment is directed to a financial institution which maintains or utilizes an account on the books of another Federal Reserve Bank, forward the payment instruction to the other Federal Reserve Bank. The Federal Reserve Bank on whose books the financial institution or its designated correspondent maintains an account shall deliver or make available to the financial institution the information contained in the payment instruction not later than the close of business for the financial institution on the business day prior to the payment date on the medium as agreed to by the Federal Reserve Bank and financial institution.

(d) A financial institution by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal Reserve Bank to credit the amount of the payment to the account of the financial institution on its books, or the account of its designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a payment instruction from the Federal Government shall make the amount specified in the payment instruction available for withdrawal from the financial institution's account on its books, referred to in paragraph (d) of this section, at the opening of business on the payment date.

(f) Each Federal Reserve Bank shall be responsible only to the Treasury and shall not be liable to any other party for any loss resulting from the Federal Reserve Bank's action under this section.

**§ 210.7 Financial institutions.**

(a) A financial institution's execution of actions required of it in connection with an enrollment shall constitute its agreement to the terms of this part with respect to each payment received by it pursuant to the enrollment. Regardless of whether it has executed an enrollment, a financial institution's acceptance and handling of a payment issued pursuant to this part shall constitute its agreement to the provisions of this part.

(b) A financial institution in executing an enrollment shall be responsible for:

(1) The completeness and accuracy of the data provided by it with respect to the enrollment, and

(2) Verifying that the account number entered by the recipient during enrollment corresponds to an account bearing the name of the recipient.

(c) A financial institution wishing to terminate an enrollment shall do so by giving written notice to the recipient. The termination shall become effective 30 days after the financial institution has sent the notice to the recipient. However, terminations for reasons of fraud shall be effective immediately.

(d) A financial institution receiving a payment under this part shall credit the amount of the payment to the designated account of the recipient on its books, and it shall make the amount available for withdrawal or other use by the recipient not later than the opening of business on the payment date. "Available" in this paragraph means accessible through any means of access provided by a financial institution to its customers for the recipient's type of account, for example, checks, automated teller machines, or automatic transfers from the recipient's account. If the payments or any related information received by the financial institution from a Federal Reserve Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, the financial institution, after assuring itself that neither it nor any of its agents is responsible, shall immediately notify the Federal Reserve Bank in order that it may deliver corrected information to the financial institution.

(e) A financial institution receiving a payment under this part shall credit the amount of the payment to the account specified in the payment instruction. If the financial institution is unable to credit the amount of the payment to the account indicated in the payment instruction because, for example, such an account does not exist on its books, or because in processing the payment it has reason to believe the account indicated in the payment instruction is not the account designated by the recipient, it shall either:

(1) Return the payment to the Federal Reserve Bank with a statement identifying the reason therefor; or

(2) Credit the amount of the payment to the account designated by the recipient.

A credit to any other account by a financial institution shall constitute a breach of its waranty made by reason of paragraph (i) of this section.

(f) A financial institution shall immediately return to the Federal Government through the Federal Reserve Bank any payment received by the financial institution:

(1) After termination of the enrollment pursuant to § 210.4(c)(2) and before the execution of a new enrollment;

(2) After termination of the enrollment pursuant to § 210.7(c) has become effective;

(3) After the financial institution learns of the death or legal incapacity of the recipient, or the death of the beneficiary, of a benefit payment, regardless of whether or not notice has been received from the Federal Government; or

(4) After the closing of the recipient's account.

(g) A financial institution to which a payment is sent under this part does not thereby become a Federal Government depositary and shall not advertise itself as one because of that fact.

(h) If any change in account numbers permitted by § 210.4(f) is made by a financial institution, the financial institution shall be liable to the recipient for any lost or late payment caused by

the financial institution's actions in processing the change.

(i) Each financial institution by its action of handling a payment under this part shall be deemed to warrant to the Federal Government that it has handled the payment in accordance with the requirements of this part. In addition to the liability which may be imposed pursuant to § 210.11, if the foregoing warranty is breached, the financial institution shall be liable to the Federal Government for any loss sustained by the Federal Government, but only to the extent that the loss was the result of the breach. Except as provided in this section §§ 210.10(b) and 210.11, a financial institution shall not be liable under this part to any party for its handling of a payment.

**§ 210.8 Timeliness of action.**

If, because of circumstances beyond its control, action by the Federal Government, a Federal Reserve Bank, or a financial institution is delayed beyond the time prescribed for the action (including the payment date) by this part, by the operating circulars of the Federal Reserve Banks, or by applicable law, the time within which the action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, provided the Federal Government, the Federal Reserve Bank, or the financial institution exercises such dilegence as the circumstances require.

**§ 210.9 Liability of, and acquittance to, the United States.**

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a payment to the appropriate account of the recipient as required by this part. This liability shall be limited to the amount of the payment.

(b) The United States shall be liable to the financial institution, up to the amount of the payment, for a loss sustained by the financial institution as a result of its crediting the amount of the payment to the account specified in the payment instruction, if the financial institution has handled the payment in accordance with this part. The foregoing does not extend to benefit payments received by the financial institution after the death or legal incapacity of the recipient or death of the beneficiary, in which event § 210.11 shall govern.

(c) The crediting of the amount of a payment to the appropriate account of a recipient on the books of the appropriate financial institution shall constitute a full acquittance to the United States for the amount of the payment.

**§ 210.10 Fraud.**

(a) The False Claims Act, 31 U.S.C. 3729, *et seq.*, provides for the recovery of damages and a civil penalty from any person who knowingly presents to the Federal Government, or causes to be presented, a false or fraudulent claim for payment, or uses a false record or statement in connection with such a claim. In addition, criminal penalties are provided in 18 U.S.C. 1001 for knowingly making false or fraudulent statements or representations to agencies of the Federal Government, and in 18 U.S.C. 1002 for knowingly possessing false documents for the purpose of enabling another to receive a payment from the Federal Government. These provisions are in addition to the Federal Government's remedies under common law.

(b) A financial institution shall verify the identity of any person who initiates and executes an enrollment through such financial institution. The Federal Government shall verify the identity of any person who presents an enrollment to the Federal Government without prior review or execution by a financial institution. A financial institution that executes an enrollment in which the recipient's or beneficiary's signature is forged or other information is falsified shall be liable to the Federal Government for all payments made in reliance thereon, except for the case where the beneficiary was deceased at the time the recipient executed the enrollment and if the financial institution had no knowledge of the beneficiary's death. However, once the financial institution has provided notice to the program agency that a payment certified by the program agency has not been received by the correct recipient or beneficiary, it shall not be liable for any payments based on the forged, false, or fraudulent information which are certified for payment after the date of the notice.

## Subpart B—Repayment of Benefit Payments

**§ 210.11 Death or legal incapacity of recipients or death of beneficiaries.**

(a) A financial institution shall be liable to the Federal Government for the total amount of all benefit payments received after the death or legal incapacity of the recipient or the death of the beneficiary, except as provided in paragraph (f) of this section. However, a financial institution may limit its liability if the financial institution did not have knowledge of the death or legal incapacity at the time of the deposit or withdrawal of any of the benefit payments made after the death or legal incapacity, and if it fulfills the requirements of this section and those of §§ 210.12 and 210.13.

(b) Except as provided in paragraph (f) of this section, if limitation of liability is available to a financial institution under this part, the amount of its liability shall be:

(1) An amount equal to the amount in the recipient's or beneficiary's account as defined in § 210.12(b)(2)(i), plus.

(2) An amount equal to the benefit payments received by the financial institution within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary; *Provided,* that the financial institution will be liable only for the 45-day amount to the extent described in § 210.12(d).

(c) Although a financial institution shall be liable for an amount equal to the amount in the recipient's or beneficiary's account, plus the amount of benefit payments received within 45 days after the death or legal incapacity of the recipient or the beneficiary, this part does not authorize or direct a financial institution to debit the account of any customer, living or deceased, including that of the recipient or beneficiary, for the financial institution's liability to the Federal Government under this part. The amount in the recipient's or beneficiary's account is only a measure of the financial institution's liability. Nothing in this part shall be construed to affect any right a financial institution may have under State law or the financial institution's contract with a customer to recover from the customer's account an amount returned to the Federal Government in compliance with this part.

(d) A financial institution shall be deemed to have knowledge of the death or legal incapacity of the recipient or beneficiary when it is brought to the attention of a financial institution employee who handles benefits payments, or when it would have been brought to that person's attention if the financial institution had exercised due diligence. The financial institution will be considered to have exercised due diligence only if it maintains procedures under which, once it learns of the death of a depositor, it determines whether its deceased depositor is a recipient or beneficiary of benefit payments under this part, and immediately communicates such information to the appropriate employees, and it complies with such procedures. This obligation does not impose a duty on a financial institution to learn of the deaths of its customers by searching obituaries or any other means, unless it does so for purposes other than its participation in

the payment system governed by this part.

(e) A financial institution that fails to comply timely with the collection procedures set forth in § 210.12 or the Notice to Account Owners requirement of § 210.13 may not limit its liability in accordance with paragraph (a) of this section.

(f) A financial institution will not be liable under this part for benefit payments made after the death of a beneficiary if the beneficiary was deceased at the time the recipient executed an enrollment and if the financial institution had no knowledge of the beneficiary's death.

**§ 210.12 Collection procedures.**

The amount for which the financial institution is liable under § 210.11 shall be collected as follows:

(a) For each type of benefit payment, the Federal Government will send a Notice of Reclamation to the financial institution. The Notice of Reclamation will identify benefit payments sent to the financial institution for credit to the account of a recipient or beneficiary which should have been returned by the financial institution because of the death or legal incapacity of a recipient or the death of a beneficiary.

(b) Upon receipt of the Notice of Reclamation, the financial institution must do one of the following:

(1) If the financial institution had knowledge of the death or legal incapacity and did not immediately return to the Federal Government all benefit payments received after it acquired that knowledge, the financial institution shall immediatelly return to the Federal Government an amount equal to the outstanding total of benefit payments listed on the notice that it received after it learned of the death. With respect to any benefit payments received prior to learning of the death that have not been returned, the financial institution shall certify on the Notice of Reclamation the date it learned of the death and follow the procedure in paragraph (b)(2) of this section.

(2) If the financial institution had no knowledge of the death or legal incapacity at the time any benefit payments made after the death or legal incapacity were credited to the recipient's or beneficiary's account, an appropriate official of the financial institution shall certify on the Notice of Reclamation that it had no knowledge of the death or legal incapacity and fully complete the Notice of Reclamation in accordance with its instructions and do the following:

(i) The financial institution shall return to the Federal Government both the executed Notice of Reclamation and an amount equal to the amount in the account or the outstanding total, whichever is less. The amount in the account is the balance when the financial institution has received the Notice of Reclamation and has had a reasonable time to take action based on its receipts, plus any additions to the account balance made before the financial institution returns the completed Notice of Reclamation to the Federal Government. For the purposes of this paragraph, action is taken within a reasonable time if it is taken not later than the close of business day following the receipt of the Notice of Reclamation.

(ii) If the amount returned is less than the amount requested in the notice, the financial institution shall include with the Notice of Reclamation the name and the most current address on its records of any person(s) who withdrew funds from the account after the death or legal incapacity. If the financial institution is unable to supply the name(s) of the withdrawer(s), it shall provide the names and most current addresses on its records of any co-owners of the account or other persons authorized to withdraw. If it is unable to supply the names or addresses of the withdrawers or co-owners, it shall state the reason for its inability on the Notice of Reclamation.

(3) If the Federal Government issues a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall be liable with respect to such second or subsequent Notice only for an amount equal to the amount in the account at the time it receives a second or subsequent Notice of Reclamation, plus any further additions to the account balance up to the date it returns these subsequent Notices of Reclamation. For a second or subsequent Notice of Reclamation for the same type of payment for the same recipient or beneficiary, the financial institution shall not be liable for an amount in excess of the amount determined under the first sentence of this paragraph, attributable to benefit payments received within 45 days after the death or legal incapacity if it complied properly and timely to the first Notice of Reclamation.

(c) If the Federal Government does not receive a response to the Notice of Reclamation within 30 days, it will issue a follow-up to ensure that the original Notice of Reclamation was received. If the Federal Government does not receive from the financial institution the fully completed and properly executed Notice of Reclamation along with the amount due under § 210.11(b)(1) within 60 days of the issue date of the original Notice of Reclamation, the financial institution shall be liable for the outstanding total listed on the Notice of Reclamation. Following the sixtieth day after the date of the original Notice of Reclamation, the Federal Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of benefit payments in the amount of the outstanding total. By receiving benefit payments under this part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(d) After the financial institution has paid to the Federal Government an amount equal to the amount in the recipient's account as provided in § 210.11(b)(1), if the program agency is unable to collect the entire outstanding total from the withdrawer(s), the financial institution shall be liable for an additional amount equal to the benefit payment received by it within 45 days after the death or legal incapacity, or the balance of the outstanding total, whichever is less. The Federal Government will instruct the appropriate Federal Reserve Bank to debit the account utilized by the financial institution for receipt of benefit payments in the amount of the outstanding total. By receiving benefit payments under this part, the financial institution is deemed to authorize this debit. The Federal Reserve Bank will provide advice of the debit to the financial institution.

(e) Immediately upon learning of the death or legal incapacity regardless of whether there has been notification from the Federal Government, the financial institution shall return to the Federal Government any further benefit payments it receives and notify the Federal Government that it has learned of the death or legal incapacity in order that the above collection procedures can be commenced. See § 210.7(f)(3).

**§ 210.13 Notice to Account Owners of collection action.**

(a) Upon receipt by a financial institution of the Notice of Reclamation as described in § 210.12(a), the financial institution shall immediately mail to the current address(es) of the account owner(s) of record a copy of the Notice to Account Owners included with the Notice of Reclamation.

(b) The financial institution shall indicate with the Notice to Account

Owners any action it has taken or intends to take with repsect to the recipient's or beneficiary's account in connection with the Federal Government's collection action against the financial institution.

(c) The financial institution is not authorized by this part to debit the account of any party or to deposit any funds from any account in a suspense account or escrow account or the equivalent. If such action is taken, it must be under authority of State law or the financial institution's contract with its depositor(s).

(d) The financial institution's liability under this part is not affected by any action taken by it to recover from any party the amount of the financial institution's liability to the Federal Government.

(e) Failure to mail the Notice to Account Owners, or failure to certify on the Notice of Reclamation that it has done so, shall result in the forfeiture by the financial institution of its ability under this part to limit its liability. See § 210.11(e).

**§ 210.14 Erroneous death information.**

(a) In the event that the financial institution is advised that the Federal Government's information that the recipient or beneficiary is deceased is correct, or that the date of death is incorrect, the financial institution shall certify the correct information to the Federal Government by one of the following means:

(1) Certify on the "Notice of Reclamation" that the person whose name is reflected on the notice is alive, or that the date of death is incorrect, and that the financial institution took prudent measures to assure that the person was alive or that the date of death was erroneous. Prudent measures to assure that the person was alive include, but are not limited to, the named person providing the financial institution adequate identification, or obtaining through a third person a signed, dated and notarized statement from the named person. Prudent measures to assure the correct date of death include obtaining a death certificate.

(2) If there is any question regarding the sufficiency of the evidence presented to demonstrate that the date or fact of death is incorrect, the individual presenting the evidence should be referred by the financial institution to the agency making the payment, e.g., the Social Security Administration or the Veterans Administration. The agency will certify in writing to the financial institution the corrected information. The financial institution shall then return the agency's certification with the Notice of Reclamation.

(b) If the Federal Government's informaion that the recipient or beneficiary is deceased is in error, the financial institution shall be relieved of its liability, and shall no longer be subject to collection procedures under this part, if an accurate certification in accordance with paragraph (a) of this section is received by the Federal Government, on or with a properly completed Notice of Reclamation, within 60 days of the date of the original Notice of Reclamation to the financial institution.

(c) If the date of the death on the Notice of Reclamation is in error, the financial institution shall be relieved of an appropriate part of its liability if an accurate certification in accordance with paragraph (a) of this section is received by the Federal Government, on or with properly completed Notice of Reclamation, within 60 days of the date of the original Notice of Reclamation to the financial institution. In that event, the financial institution shall adjust the outstanding total on the Notice of Reclamation to exclude benefit payments made before the corrected date of death. The financial institution shall include an explanation of the adjustment with the Notice of Reclamation. If correction of an error relating to the date of death shown on the Notice of Reclamation would result in additional payments being due to the Federal Government, the financial institution shall so notify the Federal Government when it returns the Notice of Reclamation.

(d) If after the financial institution has returned to the Federal Government a completed Notice of Reclamation and had made payment of its liability, the financial institution learns that the fact of death or date of death was in error, it should bring the information to the attention of the agency which made the benefit payments, e.g., the Social Security Administration or the Railraod Retirement Board. The agency will refund to the financial institution, without interest, the appropriate amount of funds paid by the financial institution pursuant to § 210.12, including funds debited from its Federal Reserve account under § 210.12 (c) or (d).

Dated: January 16, 1987.

**W.E. Douglas,**

*Commissioner.*

[FR Doc. 87-1286 Filed 1-21-87; 8:45 am]

BILLING CODE 4810-35-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 61

**[CC Docket No. 83-1145, Phases I and II, Part 1]**

### Investigation of Access and Divestiture Related Tariffs; Unbundling of Special Access Inside Wiring Rates

**AGENCY:** Federal Communications Commission.

**ACTION:** Memorandum Opinion and Order granting petition to vacate; Waiver of rules.

**SUMMARY:** The Commission gives notice that it has granted a petition to vacate certain portions of its Order in Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phases I and II, Part 1, released March 8, 1985 (50 FR 11440 (March 21, 1985)) because the cost recovery mechanism established by that Order is unduly difficult to implement and perhaps unnecessary as a result of the deregulation of inside wiring. The order grants partial waivers from certain rules concerning tariff filings.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kurt DeSoto, Tariff Division, Common Carrier Bureau, (202) 632-6917.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order, CC Docket No. 83-1145, Phases I and II, Part 1, FCC 86-578, adopted December 24, 1986, and released December 31, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington DC 20037.

**Summary of Memorandum Opinion and Order**

The Commission granted a petition to vacate certain portions of its Order in Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phases I and II, Part 1, released Mar. 8, 1985 (50 FR 11440 (1985)) In that Order, the Commission directed local exchange carriers (LECs) to establish a separate rate element to recover special access inside wiring investment. The Commission decided that modification

of its Order is necessary because neither the LECs nor their customers have been able to identify adequately telephone company-provided inside wiring users and because the need to unbundle rates has been mitigated in light of the deregulation of inside wiring. The Commission stated that, under these circumstances, it does not appear that a feasible method to charge only cost-causers is available. The Commission is, therefore, allowing the LECs to recover the costs of inside wiring from the base of special access ratepayers generally. Carriers are directed to file tariff revisions conforming with this Order no later than January 12, 1987.

**Ordering Clauses**

Accordingly, It Is Ordered that the petition filed on October 21, 1986, by Pacific Bell and Nevada Bell, requesting this Commission to vacate certain portions of our Order in Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phases I and II, Part 1, FCC 85-100, released Mar. 8, 1985, Is Granted.

It Is Further Ordered that the local exchange carriers subject to this Order and the Commission's *March 8 Order* shall modify their tariffs to implement wiring rate elements as described in paragraphs 27-29, *supra.* These revisions must be filed no later than January 12, 1987, to become effective January 17, 1987.

**§§ 61.58, 61.59, and 61.74 [Waived]**

It Is Further Ordered that §§ 61.58, 61.59, and 61.74 of the Commission's Rules, 47 CFR 61.58, 61.59 and 61.74, are waived to the extent required to file tariff revisions implementing this Order. We assign Special Permission No. 86-957 for this purpose.

William J. Tricarico,

*Secretary, Federal Communications Commission.*

[FR Doc. 87-630 Filed 1-27-87; 8:45 am]

BILLING CODE 6712-01-M

## INTERSTATE COMMERCE COMMISSION

### 49 CFR Part 1057

**[Ex Parte No. MC-43 (Sub-No. 19)]**

### Lease and Interchange of Vehicles (Documents in Lieu of Rated Freight Bills)

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a petition, the Commission is modifying its rule at 49 CFR 1057.12(g) to allow carriers the option, at settlement, of providing those owner-operators whose revenue is based on a percentage of the gross revenue for a shipment either: (1) A copy of the rated freight bill (or, in the case of contract carriers, another form of documentation that contains the same information as a rated freight bill); or (2) an alternative, computer-generated document that contains that same information. The rule would allow carriers with computerized recordkeeping systems to give owner-operators a computer-generated document in lieu of the rated freight bill that the current rule requires and eliminate the need to create additional documents to accommodate the existing rule.

**EFFECTIVE DATE:** February 23, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mark Shaffer, (202) 275-7805.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**Regulatory Flexibility Analysis**

We reaffirm our prior certification. The rule we are adopting will not have a significant economic impact on a substantial number of small entities because it should reduce, albeit minimally, administrative costs for many carriers. In addition, it should not significantly affect owner-operators.

**List of Subjects in 49 CFR Part 1057**

Motor carriers.

Decided: January 13, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Andre concurred with a separate expression.

Noreta R. McGee,

*Secretary.*

**Appendix—Final Rule**

Part 1057 of the Code of Federal Regulations, Title 49, is amended as follows:

## PART 1057—LEASE AND INTERCHANGE OF VEHICLES

1. The authority citation for Part 1057 continues to read as follows:

**Authority:** 49 U.S.C. 11107 and 10321, 5 U.S.C. 553.

2. Paragraph (g) of § 1057.12 is revised to read as follows:

**§ 1057.12 Written lease agreements.**

* * * * *

(g) *Copies of freight bill or other form of freight documentation.* When a lessor's revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document containing the same information, or, in the case of contract carriers, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, the lease will permit lessor to view, during normal business hours, a copy of any actual document underlying the computer-generated document. Regardless of the method of compensation, the lease must permit lessor to examine copies of the carrier's tariff or, in the case of contract carriers, other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract of a contract carrier, only those portions of the contract containing the same information that would appear on a rated freight bill need be disclosed. The authorized carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation.

* * * * *

[FR Doc. 87-1339 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 672

**[Docket No. 61234-6234]**

### Groundfish of the Gulf of Alaska

**AGENCY:** National Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA issues a final rule implementing management measures to (1) allow continued fishing for other groundfish species in a regulatory area or district when the Director, Alaska Region, NMFS (Regional Director), determines that the optimum yield (OY)

for a groundfish species has been reached, and (2) close a regulatory area or district of the Gulf of Alaska to direct fishing for sablefish by any specific gear type prior to achievement of the share of the sablefish OY that has been allocated to that gear type, thereby providing some sablefish for bycatch in other fisheries using that gear type. This action is necessary to promote full utilization of all groundfish species without biological harm to any one species and without inhibiting the development of fisheries that are dependent on sablefish and other groundfish species. It is intended as a conservation and management measure to optimize groundfish yields from the fishery.

**EFFECTIVE DATE:** January 16, 1987.

**ADDRESS:** Copies of documents supporting this rule may be obtained from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

**FOR FURTHER INFORMATION CONTACT:** Ronald J. Berg (Fishery Biologist, NMFS), 907–586–7230.

**SUPPLEMENTARY INFORMATION:**

## Backgound

The domestic and foreign groundfish fishery in the exclusive economic zone (3–200 miles offshore) of the Gulf of Alaska is managed under the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by regulations at 50 CFR Part 611, with respect to the foreign fishery, and at 50 CFR Part 672, with respect to the domestic fishery. Both the foreign and domestic implementing regulations at §§ 611.92(c)(2)(ii) and 672.20(b)(1) contain measures that require closure of entire regulatory areas or districts to all fishing whenever an OY for any species is reached, except for the foreign hook-and-line fisheries for Pacific cod and sablefish which under § 611.92(c)(2)(D) may continue until the OY for each of these species is achieved. The domestic regulation at § 762.24(b) requires closure of (1) the Eastern Regulatory Area to all trawl gear when vessels using trawl gear have harvested 5 percent of the sablefish OY as bycatch, and (2) the Central and Western Regulatory Areas to all hook-and-line, trawl, and pot gear when each respective share of the sablefish OYs has been taken.

At its January 15–17, 1986, meeting, the Council reviewed §§ 672.20(b) and 672.24(b) and recommended that the Secretary amend § 672.20(b) to allow fishing for other species to continue when the OY for a single species in a regulatory area or district is reached, on the condition that such fishing will not result in overfishing of that species. Overfishing is considered to be the level of fishing mortality that jeopardizes the capacity of a stock to produce maximum biological or economic value on a long-term basis under prevailing biological and environmental conditions. The Council did not recommend that the Secretary amend the foreign fishing regulations. Most of the groundfish resources in the Gulf of Alaska are fully utilized, or will be fully utilized, by U.S. fishermen in domestic annual processing (DAP) or joint venture processing (JVP) operations. As a result, directed foreign trawling in the Gulf of Alaska has greatly diminished since 1978. No foreign trawling occurred in 1986. Foreign hook-and-line fishing for Pacific cod could be eliminated in future years.

With respect to § 672.24(b), the Council recommended that the Secretary amend the regulation to allow closure of directed fishing for sablefish by any gear type prior to full attainment of the portion of the OY allocated to that gear type, to assure that a portion of the sablefish OY would remain to provide an adequate bycatch in fisheries for other groundfish species. Such a closure would reduce the potential for exceeding the sablefish OY by closing directed fishing for sablefish by pot, hook-and-line, or trawl vessels prior to their taking the share of the OY assigned to that gear type in any area or district, leaving an amount of sablefish available for bycatch in fishing other species. "Directed fishing" for any species is defined at § 672.2 to mean fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of such fish that amount to 20 percent or more of the catch, take, or harvest, or to 20 percent or more of the total amount of fish or fish products on board at any time. Upon such closure, sablefish could continue to be landed by that gear type only as an incidental catch until that portion of the OY allocated to it had been achieved, after which sablefish would be treated as a prohibited species.

Upon receipt of the Council's recommendations, the Secretary commenced a review of the problems the recommendations were designed to cure. During that review, the Secretary determined that an emergency existed in the domestic fishery as a result of the existing regulations and issued an emergency interim rule to allow continued fishing for other groundfish species after the OY for a single groundfish species has been reached and to close a regulatory area or district in the Gulf of Alaska to directed fishing for sablefish by any specific gear type prior to achievement of the sablefish OY allocated to that gear type, thereby providing sablefish for bycatch (51 FR 20659, June 6, 1986) to permit fishing activity for other groundfish by that gear type.

The preamble to the emergency rule described and presented the reasons for each of the changes. Because the Secretary anticipated that these rule changes would need to be implemented for a longer duration than an emergency rule would allow, he invited public comments to be considered in promulgation of a final rule permanently implementing the changes. The comment period ended on July 3, 1986. No comments from the public were received.

The emergency rule was extended (51 FR 30663, August 28, 1986) for a second 90-day period effective September 2, 1986, through November 30, 1986.

The Secretary has concluded his review of the problems the Council's recommendations were designed to cure.

With respect to § 672.20(b), after reviewing the bycatch rates of all groundfish species in the various fisheries, the Secretary determined that certain groundfish fisheries take small to insignificant amounts of other groundfish species as bycatch. He also determined that further bycatches of such species for which the OY had already been attained, in most cases, would not necessarily constitute overfishing under the Magnuson Act. He concluded, therefore, that prohibiting all fishing in a regulatory area or district, or part thereof, when the OY for a single species is reached is not justified in all cases, and that such unqualified closures could impose unacceptable, negative economic effects on the fishing industry. Accordingly, he has determined that § 672.20(b) should be permanently implemented.

With respect to § 672.24(b), after reviewing the potential effects of this measure on other segments of the groundfish industry, the Secretary determined that the potential negative economic effects on the industry were similar to those discussed above for § 672.20(b). Accordingly, he has determined that § 672.24(b) should be permanently amended to authorize closure of the directed fishery for sablefish by any legal gear type prior to reaching its share of the OY to retain a

portion of the sablefish OY for bycatch to support groundfish fishing for other species with that gear type. Thus, the Secretary may close directed fishing for sablefish by any gear type in a regulatory area or district if the Regional Director determines that the share of sablefish OY assigned to that gear type in that regulatory area or district may be taken before the end of the year. Sablefish could continue to be landed only as incidental catch until the portion of the OY allocated to that gear type is achieved. At that time, further sablefish catches by that gear type would be treated as a prohibited species under this section unless closure of all fisheries were necessary to prevent overfishing of sablefish.

A summary of the environmental assessment, regulatory impact review, and initial regulatory flexibility analysis (EA/RIR/IRFA) appeared in the preamble to the proposed rule and is not repeated here.

**Public Comments**

No public comments were received.

**Secretarial Action**

The Secretary issues this final rule to amend the current rules at

(a) § 672.20(b), to authorize species-specific fishery closures; and

(b) § 672.24, to authorize closure of the directed fishery for sablefish by any legal gear type prior to reaching its share of the OY and retaining a portion of the sablefish OY for bycatch to support groundfish fishing for other species with that gear type.

*Classification*

The Assistant Administrator determined that this regulatory amendment is necessary for the conservation and management of the groundfish fishery and that it is consistent with the Magnuson Act and other applicable law. An environmental assessment was prepared for this regulatory amendment as part of the EA/RIR/IRFA. The Assistant Administrator concluded that no significant impact on the human environment will occur as a result of this rule. A copy of the EA/RIR/IRFA may be obtained from the Regional Director at the address above.

The Administrator of NOAA determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the EA/RIR/IRFA prepared by the Regional Director.

The Regional Director prepared a final regulatory flexibility analysis (FRFA), which describes the effects this rule will have on small entities. The analysis contained in the FRFA is the largely the same as that contained in the EA/RIR/IRFA, which was summarized in the preamble to the emergency interim rule (51 FR 20659, June 6, 1986; corrected at 51 FR 22287, June 18, 1986). A copy of the FRFA may be obtained from the Regional Director at the address above.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

Since this final rule allows the continued harvest of groundfish species even after the OYs for other species have been reached, thereby avoiding premature area closures, it relieves a restriction. Accordingly, it is being made effective immediately under section 553(d)(1) of the Administrative Procedure Act.

**List of Subjects in 50 CFR Part 672**

Fisheries.

Dated: January 16, 1987.

**Carmen J. Blondin,**

*Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.*

For the reasons set forth in the preamble, 50 CFR Part 672 is amended as follows:

## PART 672—[AMENDED]

1. The authority citation for 50 CFR Part 672 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 672.20, paragraph (b) is revised, to read as follows:

**§ 672.20 Optimum yield.**

* * * * *

(b) *Notices.*

(1) If the Regional Director determines that the OY for any species in any regulatory area or district in Table 1 of paragraph (a) of this section has been or will be reached, the Secretary will issue a notice of closure under § 672.22(a) closing fishing for that species in that area or district, or part thereof, declaring that species in that area or district to be a prohibited species for purposes of paragraph (d) of this section. During the time that such a notice is in effect, the operator of every vessel regulated by this part must minimize its catch of that species in the area or district, or part thereof, to which the notice applies.

(2) If the Regional Director determines that continued fishing for other groundfish species in an area or district, or part thereof, may lead to overfishing of a species for which an OY has been or will be reached, the Secretary will, by notice in the **Federal Register**, close or limit such fishing for other groundfish species by methods, including time, area, or gear adjustments, that will prevent overfishing of the species for which the OY is taken.

(3) When making closures or imposing limitations under paragraphs (b) (1) and (2) of this section, the Regional Director will take into account the following considerations and may allow continued fishing with certain gear types, issuing findings relevant to these considerations:

(i) The risk of biological harm to a groundfish species for which the OY has been reached;

(ii) The risk of socioeconomic harm to authorized users of the groundfish for which the OY has been reached; and

(iii) The impact that a continued closure might have on the socioeconomic wellbeing of other domestic fisheries.

* * * * * *

3. In § 672.24, paragraphs (b)(1) and (b)(2) are revised and a new paragraph (b)(3) is added, to read as follows:

**§ 672.24 Gear limitations.**

* * * * * *

(b) *Sablefish gear restrictions and allocations*—(1) *Eastern Area.* No person may use any gear other than hook-and-line and trawl gear when fishing for groundfish in the Eastern Area. No person may use any gear other than hook-and-line gear to engage in directed fishing for sablefish. When vessels using trawl gear have harvested 5 percent of the OY for sablefish during any year, further trawl catches of sablefish must be treated as a prohibited species as provided by paragraph (b)(3)(ii) of this section.

(2) *Central and Western Areas.* During 1987 and 1988 in the Western Area, hook-and-line gear may be used to take up to 55 percent of the OY for sablefish; pot gear may be used to take up to 25 percent of that OY; and trawl gear may be used to take up to 20 percent of that OY. Beginning with 1987 in the Central Area and 1989 in the Western Area, hook-and-line gear may be used to take up to 80 percent of the sablefish OY in each area and trawl gear may be used to take up to 20 percent of that OY. No person may use any gear other than hook-and-line, pot,

or trawl gear in fishing for groundfish during 1987 and 1988 in the Western Area. Except in the Western Area during 1987 and 1988, no person may use any gear other than hook-and-line or trawl gear in fishing for groundfish in the Gulf of Alaska.

(3) *Sablefish bycatch amounts.* (i) When the Regional Director determines that the share of the sablefish OY assigned to any type of gear for any year and any area or district under this paragraph may be taken before the end of that year, the Secretary, in order to provide adequate bycatch amounts to ensure continued groundfish fishing activity by that gear group, will, by notice in the **Federal Register**, prohibit directed fishing for sablefish by persons using that type of gear for the remainder of that year.

(ii) If the share of the sablefish OY assigned to any type of gear for any year and any area or district under this paragraph is reached, further catches of sablefish must be treated as a prohibited species by persons using that type of gear for the remainder of that year.

[FR Doc. 87-1381 Filed 1-16-87; 4:45 pm]
BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 52, No. 14
Thursday, January 22, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

### 9 CFR Part 319

**[Docket No. 85-009E]**

### Standards for Frankfurters and Similar Cooked Sausages; Extension of Comment Period

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On November 24, 1986, the Food Safety and Inspection Service (FSIS) published a proposed rule to amend the Federal meat inspection regulations regarding the standard of identity for frankfurters and similar cooked sausages (9 CFR 319.180) and cheesefurters and similar products (9 CFR 319.181), to provide for a maximum combination of 40 percent fat and added water in those products and to continue restricting the maximum fat content to no more than 30 percent of the finished products. FSIS has received a petition to allow more time for reviewing and gathering information. FSIS concurs with this request and is hereby extending the comment period for 60 days.

**DATE:** Comments must be received on or before March 24, 1987.

**ADDRESS:** Written comments to: Policy Office, ATTN: Linda Carey, FSIS Hearing Clerk, Room 3807 South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

**SUPPLEMENTARY INFORMATION:** On November 24, 1986, FSIS published in the **Federal Register** (51 FR 42239) a proposed rule to amend §§ 319.180 and 319.181 of the Federal meat inspection regulations regarding the water and fat content of frankfurters and similar cooked sausages. For at least 30 years, the Federal meat inspection regulations have required that cooked sausages contain no more than 10 percent added water nor more than 30 percent fat. Under the proposed revision to the standard, the amount of added water could be increased above that traditional 10 percent limit, but only if the amount of fat decreases by the same amount; that is, added water may replace fat (but not protein). The limitation on fat content would remain unchanged at 30 percent, and fat and added water together could not exceed 40 percent of the product.

Interested persons were given until January 23, 1987, to comment on this proposed rule. FSIS has been petitioned to extend the comment period to allow more time to review information on the proposal. FSIS is interested in receiving additional information and is, therefore, extending the comment period for an additional 60 days, to March 24, 1987.

Done at Washington, DC, on January 16, 1987.

**Donald L. Houston,**

*Administrator, Food Safety and Inspection Service.*

[FR Doc. 87-1382 Filed 1-21-87; 8:45 am]

**BILLING CODE 3410-DM-M**

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 50

### Leakage Rate Testing of Containments of Light-Water-Cooled Nuclear Power Plants; Extension of Comment Period

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** On October 29, 1986 (51 FR 39538), the Nuclear Regulatory Commission published a proposed revision to its requirements for leakage rate testing of containments of light-water-cooled nuclear powerplants as set out in Appendix J to 10 CFR Part 50. The comment period for this proposed rule was to expire on January 26, 1987. Several potential commentators requested an extension of this comment period because of significant aspects of the proposed rule that require detailed review. The NRC has evaluated these requests and agrees to extend the comment period for this proposed rule.

**DATE:** The comment period is extended to April 24, 1987. However, the NRC encourages early submittal of comments to expedite completion of this rulemaking action.

**ADDRESSES:** Mail written comments to: U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to: Room 1121, 1717 H Street, NW., Washington, DC, between 8:15 am and 5:00 pm Federal workdays.

**FOR FURTHER INFORMATION CONTACT:** Mr. E. Gunter Arndt, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 443-7893.

Dated at Washington, DC, this 16th day of January 1987.

For the Nuclear Regulatory Commission.

**Samuel J. Chilk,**

*Secretary of the Commission.*

[FR Doc. 87-1367 Filed 1-21-87; 8:45 am]

**BILLING CODE 7590-01-M**

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 100

**[Notice 1987-2]**

### Bank Loans to Candidates and Political Committees

**AGENCY:** Federal Election Commission.

**ACTION:** Announcement of hearing and extension of comment period.

**SUMMARY:** The Commission has scheduled a public hearing on the issue of when bank loans to candidates and political committees are considered to be made in the ordinary course of business.

Additional information on the subject of this hearing is provided in the supplementary information which follows.

**DATES:** A public hearing on the issue of bank loans to candidates and policital committees will be held on March 11, 1987, at 10:00 a.m.

Persons wishing to testify at the hearing must so notify the Commission in writing on or before February 23,

1987. Further, any person requesting to testify must submit written comments to the Commission on or before February 23, 1987.

**ADDRESS:** Requests to appear and comments must be addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463. Comments are available for review in the Commission's Office of Public Records at 999 E Street NW., Washington, DC. The public hearing will be held in the Commission's 9th Floor hearing room at the same address.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan E. Propper, Assistant General Counsel, (202) 376–5690 or Toll Free (800) 424–9530.

**SUPPLEMENTARY INFORMATION:** Several issues regarding bank loans to candidates and political committees were previously raised in the Notice of Proposed Rulemaking which the Commission published on August 5, 1986 (51 FR 28154). Although the primary subject of that Notice was public financing of Presidential candidates, the Commission chose it as the vehicle for seeking an initial set of comments on bank loans because publicly financed candidates had been involved in some of the major bank loan matters before the Commission. Moreover, the public financing Notice provided an opportunity to obtain such comment more quickly than a separate notice would have. The public hearing being announced today is the next stage of the rulemaking process on this issue. After reviewing the comments received and testimony presented, if the Commission determines that additional action is necessary in this area, it will publish a Notice of Proposed Rulemaking containing proposed regulations.

In the August 5 Notice, the Commission indicated that problems had arisen in determining when a bank loan should be considered made "in the ordinary course of business," pursuant to 2 U.S.C. 431(8)(B)(vii) and the Commission's regulations implementing that provision. See 11 CFR 100.7(b)(11) and 100.8(b)(12). Specifically, questions have arisen regarding the meaning of the statutory requirement that a bank loan be "made on a basis which assures repayments."

The August 5 Notice sought comments on three possible interpretations of the phrase "made on a basis which assures repayments" in addition to encouraging suggestions of other possible approaches. The first interpretation would require a candidate or political committee to secure a loan with some form of traditional collateral. The second approach would not rely solely on traditional forms of collateral but would allow candidates and committees to utilize a candidate's expectation of campaign contributions or public funds as collateral sufficient to constitute an adequate assurance of repayment so long as the funds were, upon receipt, deposited in a separate "collateral account." The final interpretation discussed in the Notice would require the Commission to revise its current approach to this issue. Under this interpretation, the statute would be read as requiring only that a loan be evidenced by a written instrument and subject to a due date or amortization schedule in order to comply with the requirement that the loan be made on a basis which assures repayment. Of course, the loan would also have to comply with the other statutory requirements, including that the loan bear the usual and customary interest rate of the lending institution.

It should be noted that, while this issue was raised in the context of a Notice regarding public financing, the impact of this issue extends to other candidates and political committees as well. Certain unique constraints do, however, apply to publicly financed candidates. In particular, publicly financed candidates are limited to expending $50,000 of their personal funds (which would include loan quarantees) while there is not limit on the amount of personal assets which other candidates can expend. All candidates also operate under the additional restriction that a loan guarantee by anyone other than the candidate is considered a contribution by the guarantor and therefore is subject to the contribution limits.

In order to explore the potential impact of the three alternatives on both publicly financed and other candidates and political committees, the Notice sought responses to several specific questions for Commission consideration. For example, if a lender requires traditional collateral for a loan, how should that be applied to publicly financed candidates who, typically, are involved in expensive campaigns but are limited to expending $50,000 of their personal funds? Should the regulations specify what types of collateral would be considered acceptable and, if so, what should be included on this list? If future campaign contributions are to be considered as acceptable collateral, how should a lending institution evaluate the ability of a candidate or political committee to raise those expected contributions, especially in the case of a first-time candidate or new committee? And what other assurance of repayment can a candidate, particularly a publicly-funded candidate, offer?

In addition to raising questions based on the three suggested alternatives the Notice also sought comments on some additional questions to explore the general experience of lending institutions with candidates and political committees and similar debtors. For example, what factors do lending institutions consider when making loans to candidates and political committees and how do those factors compare with those considered when making loans to similar organizations which rely on contributions for funding? Are there any generalizations that can be made regarding the experience of lending institutions with extensions of credit to political debtors and how do these factors, such as the rate of repayemnt by political debtors vs. non-political debtors, affect the loan approval process? Are there any special problems in seeking repayment from political debtors, and does the amount of time past the due date after which collection proceedings will be instituted vary between political debtors and non-political debtors?

Another question raised more recently is whether lending institutions view loan requests from candidates differently than loan requests from their political committees insofar as these committees generally lack assets to serve as traditional collateral for the loan? The Commission also seeks comments on an approach which would treat political loans similarly to insider loans (loans made to executive officers, directors and principal shareholders of the lending institution) by requiring that they be approved in advance by the bank's board of directors, recorded in the minutes of the board meeting, and listed in separate records maintained by the bank.

In response to the August 5 Notice, the Commission received 14 comments on the bank loan issue. The commenters included lending institutions and their trade associations, lending institution regulatory agencies, and political committees. The commenters addressed the three alterntive interpretations discussed in the Notice, in addition to suggesting other approaches to this issue.

Six of the commenters were generally not inclined to favor the requirement of traditional collateral for loans to candidates and political committees. Among the concerns raised by those commenters which served as the basis for that conclusion were that such a requirement would make credit unavailable to many campaigns, that

such an approach would preclude lending institutions from making unsecured loans in this context which are otherwise within the authority of those institutions, and that it is difficult to determine what would constitute satisfactory collateral.

Four of the commenters favored some aspect of the alternative which would permit lending institutions to utilize future campaign contributions or public funds as collateral for loans to candidates and political committees so long as, upon receipt, the funds are deposited in a separate "collateral account." Several of those commenters stated that political borrowers should be able to obtain credit based on their cash flow, just as other borrowers do, by establishing, to the lender's satisfaction, that future funds will be available to repay the loan.

The final alternative, which would constitute a revision of current Commission policy, and require only that a loan be evidenced by a written instrument and subject to a due date or amortization schedule to be considered made on a basis which assures repayment (in addition to meeting the other statutory requirements), was supported generally by five commenters. Those commenters were basically in agreement with one another that the decision on whether a loan is made on a basis which assures repayment should be determined solely by the lending institution. They asserted that only the lending institution has the expertise required to properly render a judgment on that question. These commenters also contended that, in addition to their expertise, lenders have strong incentive from a business perspective to gain adequate assurance of repayment before making a loan. Several of these commenters suggested that the Commission should not attempt to interfere with the lending function of financial institutions by regulating any further in this area because these issues should be left to the judgment of the lending institutions, as governed by their appropriate regulatory agencies.

Two commenters opposed this third alternative. Both were of the opinion that such an approach would not be consistent with the requirements of the statute. Therefore, to adopt such a proposal would, in their view, run contrary to the standard established by Congress.

Another approach which four of the commenters outlined would consider a loan as having been made on a basis which assures repayment if it was made in accordance with the lending institution's usual policies and procedures for loans of similar size and nature. The primary consideration of this approach would be to insure that loans are made to political borrowers on the same terms and conditions as would be applied to similarly situated non-political borrowers.

A further suggestion offered by two commenters would be to require public disclosure of the terms and conditions of loans made to candidates and political committees. Both commenters were of the opinion that loans should be treated similarly to contributions in this regard and therefore committees should submit the loan agreements to the Commission along with their required disclosure reports to be placed on the public record. The commenters suggested this would help insure that political borrowers receive loans on the same terms and conditions as non-political borrowers.

The Commission welcomes additional comments on the issues raised by the current regulations regarding bank loans and the application of those regulations to both publicly financed and other candidates and political committees. The Commission also encourages all interested persons to submit requests to testify at the public hearing on this issue.

Dated: January 15, 1987.

**Scott E. Thomas,**

*Chairman, Federal Election Commission.*

[FR Doc. 87-1311 Filed 1-21-87; 8:45 am]

BILLING CODE 6715-01-M

## DEPARTMENT OF THE TREASURY

## Customs Service

## 19 CFR Part 6

## Proposed Customs Regulations Amendment Relating to Entry and Clearance of Aircraft Arriving From or Departing for Cuba

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Customs Regulations by substituting Miami International Airport for Ft. Lauderdale-Hollywood International Airport as the location at which aircraft and passengers departing the U.S. for, or entering the U.S. from, Cuba, regardless of intermediate stops, unless otherwise authorized, must enter and clear Customs. This change is necessary to enhance the enforcement of Customs regulations pertaining to the clearance of aircraft and passengers departing for, or returning from, Cuba. It will also reduce paperwork and costs for Customs and the public.

**DATE:** Comments must be received on or before March 23, 1987.

**ADDRESS:** Comments (preferably in triplicate) should be addressed to, and may be inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Louis N. Razzino, Office of Inspectional Enforcement Liaison (202-566-2140).

**SUPPLEMENTARY INFORMATION:**

### Background

Section 6.3a, Customs Regulations (19 CFR 6.3a), provides that unless otherwise authorized by the Regional Commissioner of Customs, Miami Florida, the owner or person in command of any aircraft clearing the U.S. for; or entering the U.S. from, Cuba shall clear or obtain permission to depart from, or enter at, the Ft. Lauderdale-Hollywood International Airport, Ft. Lauderdale, Florida. The owner or person in command, before arrival of the aircraft from Cuba, must furnish a notice of intended arrival to Customs, not less than 15 minutes before crossing the U.S. coast or border. The notice, which shall be furnished through the Federal Aviation Administration flight notification procedures or directly to the Customs officer in charge at the Ft. Lauderdale-Hollywood International Airport, must include such information as the aircraft registration number, the name of the aircraft commander, and the number of U.S. citizen and alien passengers. No passenger arriving from Cuba by aircraft will be released by Customs, nor will the aircraft be cleared or permitted to depart, before the passenger is released by an officer of the Immigration and Naturalization Service or by a Customs officer acting on behalf of the Immigration and Naturalization Service.

Section 6.3a was enacted by publication of T.D. 80-264 in the **Federal Register** on November 3, 1980 (45 FR 72646). The regulations were necessitated by the political situation involving aliens attempting to reach the U.S. from Cuba, in which there was serious reason to believe that unsafe and unlawful means of transportation were being utilized. The procedures enacted by the new regulations were intended to prevent such transportation. Further, Customs enforcement efforts concerning the interdiction of illegal travelers and articles going to, or arriving from, Cuba, were enhanced by

requiring the use of one airport for all flights to and from Cuba.

At the time § 6.3a was enacted, Ft. Lauderdale-Hollywood International Airport was the airport in South Florida best suited to meet Customs needs. Since that time, however, Customs staffing and other resources in Florida have changed to the extent that greater manpower and other resources exist in Miami. Also, review of the requests for authorization to land elsewhere than at Ft. Lauderdale reveals that most of the requests are to use Miami International Airport. This is apparently because most airlines willing to offer services to and from Cuba are based in Miami and their passengers, in most cases, are Cuban resident aliens or U.S. Citizens of Cuban birth living in Miami. When an aircraft flies into or out of Ft. Lauderdale-Hollywood International Airport instead of Miami International Airport, it increases the cost for all involved parties.

Accordingly, to enhance Customs enforcement efforts concerning flights to and from Cuba, to reduce the paperwork burden on customs of processing requests for authorization to land elsewhere than at Ft. Lauderdale, and to reduce the costs for Customs and the public, it is proposed that § 6.3a, Customs Regulations, be amended by substituting Miami International Airport for Ft. Lauderdale-Hollywood International Airport as the location at which aircraft and passengers arriving from, and departing for, Cuba, regardless of intermediate stops, must enter and clear Customs.

**Comments**

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

**Regulatory Flexibility Act**

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

**Executive Order 12291**

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

**Drafting Information**

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 6**

Customs duties and inspection, Aircraft, Airports, Cuba.

**Proposed Amendment**

It is proposed to amend Part 6, Customs Regulations (19 CFR Part 6), as set forth below.

## PART 6—AIR COMMERCE REGULATIONS

1. The general authority citation for Part 6 would continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 49 U.S.C. 1474, 1509.

2. It is proposed to revise paragraphs (a)(1) and (a)(2) of § 6.3a to read as follows:

**§ 6.3a Entry and clearance; Cuba.**

(a) Unless otherwise authorized by the Regional Commissioner of Customs, Miami, Florida, the owner or person in command of any aircraft clearing the U.S. for, or entering the U.S. from, Cuba, regardless of intermediate stops, shall:

(1) Clear or obtain permission to depart from, or enter at, the Miami International Airport, Miami, Florida:

(2) Before arrival from Cuba, furnish a notice of intended arrival to customs, either by or at the request of the commander of the aircraft, not less than 15 minutes before crossing the U.S. coast or border. The notice shall be furnished through the Federal Aviation Administration flight notification procedures or directly to the Customs officer in charge at the Miami International Airport, Miami, Florida. The notice shall include the following:

(i) Aircraft registration number;

(ii) Name of aircraft commander;

(iii) Number of U.S. citizen passengers;

(iv) Number of alien passengers;

(v) Place of last foreign departure;

(vi) Estimated time and location of crossing U.S. coast or border; and

(vii) Estimated time of arrival.

* * * * *

**Michael Schmitz,**

*Acting Commissioner of Customs.*

Approved:

December 31, 1986.

**John P. Simpson,**

*Assistant Secretary of the Treasury.*

[FR Doc. 87-1334 Filed 1-21-87; 8:45 am]

BILLING CODE 4820-02-M

---

**19 CFR Part 24**

## Proposed Customs Regulations Amendments Concerning Periodic Payment of Duties by Commercial Importers

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Customs Regulations to provide a procedure whereby all qualified importers and brokers who are automated entry filers and who use the Automated Broker Interface would have the option of paying their estimated duties for entries of imported merchandise on a periodic basis. By using electronic data submission for filing entry summaries and making periodic payments, users and Customs would benefit through administrative cost savings, increased efficiency, and data accuracy. Users would also benefit by not having to pay duties within 10-working days after the release of merchandise, as now required. To ensure that the proposal remains revenue neutral, interest would be assessed on estimated duty payments received beyond the normal required summary filing date (10-working days after release of merchandise).

**DATE:** Comments must be received on or before March 23, 1987.

**ADDRESS:** Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229. Comments relating to the Information Collection aspects of the proposal shall be addressed to Customs, as noted above, and also the Office of Information and Regulatory Affairs, Attention: Desk Officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** James Childress, Commercial Systems Division (202-566-5492).

**SUPPLEMENTARY INFORMATION:**

**Background**

The Automated Commercial System (ACS) has been developed to enable Customs to process the rapidly increasing volume of commercial importations in an efficient and expeditious manner. In order to accomplish this, Customs has developed automated interfaces with various elements of the importing community.

One of these, the Automated Broker Interface (ABI), enables importers and customs brokers to transmit and receive entry and entry summary data concerning importations through the use of data communication with the ACS. Pursuant to § 142.12(b), Customs Regulations (19 CFR 142.12(b)), estimated duties on imported merchandise must accompany the entry summary which is to be filed with Customs within 10-working days after the release of merchandise. Presently, importers and brokers qualified to participate in the ABI may, using the daily statement process, batch entry summaries and pay the related estimated duties using one check. Payment of estimated dutes under the daily statement process, however, must still be made within 10-working days from release of the merchandise from Customs custody.

Customs proposes to establish a periodic payment option whereby importers or brokers who have computer capability and obtain Customs approval to participate in ABI (qualified automated entry filers) may pay their estimated duties and taxes on a bi-weekly basis. All estimated duties and taxes for entry summaries electronically filed within a preestablished two week period would be due and payable on the scheduled payment due date for the period. Customs ultimate goal is to create an automated system method for accepting payments on a monthly basis. However, the initial period offered for this option will be two weeks as we are presently precluded by section 505, Tariff Act of 1930, as amended (19 U.S.C. 1505), from employing a monthly payment option. This statute provides that the payment of estimated duties may not exceed 30 days from the date of entry. If the bi-weekly periodic payment option can be implemented and proves to be successful, Customs would propose legislation to amend 19 U.S.C. 1505 and implement a monthly payment option.

By using electronic data submission for filing entry summaries and making periodic payments, importers and Customs would benefit through administrative cost savings, increased efficiency and data accuracy. Importers and brokers would also benefit by not having to pay duties within 10-working days after the release of merchandise, as now required. Thus, their funds could be available to them for a longer period of time.

**Interest Provision**

The proposal provides for the assessment of interest on all estimated duty payments received beyond the normal required entry summary filing date (10-working days after release of merchandise). Interest would be assessed only on the individual principal amounts related to a particular periodic payment cycle. Interest charges on a bi-weekly cycle would accrue on entries beginning from day 11 to day 28 after merchandise release. The provision for the assessment of interest is to ensure that the periodic payment option remains revenue neutral with regard to government financing requirements.

Inherent in the periodic payment option would be an increase in Government operational costs resulting from additional Government borrowing attributable to the shift from receiving daily payments to receiving bi-weekly payments and eventually receiving monthly payments. According to established Treasury Department guidelines (I. Treasury Financial Manual 6–8015), all financial activities of a Federal agency are required to be conducted in a cost-effective manner which will make the maximum amount of cash available to Treasury, on a continuing basis, for purpose of investment and to avoid unnecessary borrowing. Consequently, the Government's increased operational costs inherent in the periodic payment program must be neutralized by the assessment and subsequent payment of interest on the outstanding estimated duty amounts for the deferred period. The application of interest would be based on simple interest using the Treasury Current Value of Funds rate applicable for the period for which the payment is due. The Treasury Current Value of Funds rate is the average investment rate for the Treasury Tax and Loan accounts expressed as an annual rate and published by Treasury in the **Federal Register** each year by October 31, to be effective January 1.

**Mechanics of Program**

An importer or broker who wishes to participate in the periodic payment program would apply by letter to the Commercial Systems Division of Customs Headquarters. Consideration would only be given to those applicants who have been approved by Customs as automated entry filers and who currently participate in the existing ABI-Daily Statement Payment program. Additionally, the importer or broker must have a history of timely and accurately filing entry summary information with a prompt payment record regarding all Customs obligations. Upon Customs determination that the applicant meets the initial qualifications to participate in the program, the applicant would be required to sign a contractual agreement before actually participating in the periodic payment option. Once the contractual agreement is signed, Customs would initiate action to establish the applicant within the automated system as being eligible to participate in the periodic option.

The periodic payment program would be an additional processing/payment option available to ABI users. As it is optional, the participant would have the right to designate those individual entry summaries which are to be processed using the periodic payment program. A participant would be required to use the daily statement procedures available in the ABI and would have to electronically submit entry summary information within 10-working days after release of merchandise. All periodic payments, including assessed interest, would have to be paid no later than the close of business on the statement date using electronic funds transfer generated by the participant.

Failure to pay on the due date as billed would result in the participant being assessed appropriate liquidated damages under his bond on all transactions covered during the periodic cycle. Failure to pay timely on a continued basis would cause the participant to be removed from the program.

**Comments**

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. In particular comments are requested on whether entry filers would be interested in participating in the program as proposed.

Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11, Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

**Regulatory Flexibility Act**

It is certified that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), are not applicable to these amendments because the rule, while having an economic impact on large brokers who are qualified automatic entry filers, will not have a significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

The proposed regulation is subject to the Paperwork Reduction Act. Accordingly, the document has been submitted to the Office of Management and Budget for review and comment pursuant to 44 U.S.C. 3504(h). Public comments relating to the information collection aspects of the proposal should be addresed to the office of Information and Regulatory Affairs, Attention: Desk officer for U.S. Customs Service, Office of Management and Budget, Washington, DC 20503. A copy of the comments to the Office of Management and Budget should also be sent to Customs at the address set forth in the **ADDRESS** portion of this document.

**Executive Order 12291**

This document does not meet the criteria for a major "rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

**Drafting Information**

The principal author of this document was Harold M. Singer, Regulations Control Branch, U.S. Customs Service. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 24**

Accounting, Claims, Customs duties and inspection, Imports, Taxes, Wages.

**Proposed Amendments to the Regulations**

It is proposed to amend Part 24, Customs Regulations (19 CFR Part 24), as set forth below:

## PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for Part 24, Customs Regulations, continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202, 1624; 31 U.S C. 9701.

2. It is proposed to revise § 24.3(a), Customs Regulations, to read as follows:

**§ 24.3 Bills and Accounts; receipts.**

(a) Except as provided in § 24.6, any bill or account for money due the U.S. shall be rendered by an authorized Customs officer or employee on an official form.

* * * * *

3. It is proposed to amend Part 24 by adding a new § 24.6 to read as follows:

**§ 24.6 Optional method for periodic payment of estimated duties by commercial importers.**

(a) *Application.* An importer who wishes to pay estimated duties on a periodic basis may apply to participate in the periodic payment program by submitting a letter addressed to the Commercial Systems Division, Customs Headquarters. An applicant must be a qualified automated entry filer having Customs approval to electronically submit entry summary information and have a history of timely and accurately filing entry summary information with a prompt payment record regarding all Customs obligations. If Customs determines that an applicant is qualified to participate in the program, the applicant would be required to sign a contractual agreement before participating. Once a contractual agreement is signed, Customs will initiate action to establish the applicant within the automated system as being eligible to particiapte in the program.

(b) *Participation requirements.* An importer in the program must comply with the following requirements.

(1) Use the daily statement procedures available in the Automated Broker Interface and electronically submit entry summary information within 10-working days of release of merchandise. The participant has the option to designate individual entry summaries which are to be processed for periodic payment.

(2) Make all periodic payments including assessed interest using electronic funds transfer through the Federal Reserve.

(3) Pay, by no later than close of business on the designated periodic statement date, all estimated duties and taxes and related interest associated with entry summaries filed within the periodic payment cycle established by Customs.

(c) *Interest assessment.* Interest will be assessed only on the individual principal amounts related to a particular periodic payment cycle. This interest assessement would commence with the first calendar day succeeding the normal required summary filing date and continue to be assessed through the established periodic pay date. The application of interest would be based on simple interest using the daily interest rate factor for the Treasury Current Value of Funds applicable for the periodic payment period.

(d) *Penalty for failure to pay timely.* Failure to pay on the due date as billed will result in the participant being assessed appropriate liquidated damages on all transactions covered during the periodic cycle. Failure to pay timely on a continued basis would cause a participant to be removed from the program.

**William von Raab,**

*Commissioner of Customs.*

Approved:

**Francis A. Keating, II,**

*Assistant Secretary of the Treasury.*

November 14, 1986.

[FR Doc. 87-1335 Filed 1-21-87; 8:45 am]

BILLING CODE 4820-02-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

### 30 CFR Parts 761 and 784

### Intent to Prepare an Environmental Impact Statement and a Regulatory Impact Analysis on; Prohibitions to Coal Mining and Valid Existing Rights

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Notice of intent to prepare an environmental impact statement and a preliminary regulatory impact analysis and to hold a scoping meeting.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSMRE) has redefined the scope of its proposed environmental impact statement (EIS) and regulatory impact analysis (RIA) on the applicability of the prohibitions set forth in section 522(e) of the Surface Mining Control and Reclamation Act to coal mining operations to include related issues of valid existing rights (VER).

A public meeting will be held to receive comments from interested persons on the scope and significance of issues to be analyzed in the EIS and the RIA. The EIS and the RIA will assist the Secretary of the Interior in making a decision on the proposed rulemakings and related issues.

**DATES:** *Written comments:* OSMRE will accept written comments on the scope of the EIS and RIA until March 9, 1987.

*Scoping meeting:* OSMRE will hold a public scoping meeting at the location shown in **"ADDRESSES."** This meeting will begin at 9:00 a.m., February 6, 1987, and will continue until all individuals who want to present information have had an opportunity to do so. Because it is not a hearing, OSMRE will not be

using a court reporter. Persons wishing to speak are asked to provide OSMRE with a copy of their comments at the meetings.

**ADDRESS:** *Written comments:* Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Division of Permit and Environmental Analysis, Room 5111, 1100 L Street, NW., Washington, DC; or mail to the Office of Surface Mining Reclamation And Enforcement, Division of Permit and Environmental Analysis, Room 5111 L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240.

*Scoping meeting:* Room 7000, Main Interior Building, 18th and C Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Catherine Roy at the Washington, DC, address listed above (telephone: 202/343-5143).

**SUPPLEMENTARY INFORMATION:** OSMRE published a notice of intent on April 3, 1985, to conduct rulemaking on the applicability of the prohibitions in section 522(e) (4) and (5) of The Surface Mining Control and Reclamation Act of 1977 (SMCRA) (50 FR 13250). This section prohibits, subject to valid existing rights, suface coal mining operations within certain distances of specified structures or facilities.

On June 19, 1985 (50 FR 25473), OSMRE published a notice of intent to prepare a draft environmental impact statement and a preliminary regulatory impact analysis on the 522(e) rulemaking.

As a result of public comments received during the scoping period on the 522(e) rulemaking EIS, OSMRE has developed the following set of options for consideration:

(1) No Action: Current regulations are adequate to implement the Act. States will continue to interpret 522(e) (4) and (5).

(2) Prohibit all underground mining activities, including underground workings and surface facilities, and any subsidence within areas currently delineated in section 522(e) (4) and (5). Given angle of draw and depth of seam characteristics, this alternative would effectively prohibit mining beyond the protected areas.

(3) Allow underground mining operations within zones currently delineated in section 522 (e) (4) and (5), but prohibit surface facilities and any measurable subsidence in the reasonably foreseeable future.

(4) Allow underground mining operations, but prohibit surface facilities and subsidence causing material damage to protected features and structures within the ones currently delineated in section 522(e) (4) and (5). This alternative could allow mining within the buffer zone, but enough coal would have to be left in place immediately under the protected features and structures to prevent material damage.

(5) Apply the prohibitions of section 522(e) (4) and (5) only to surface facilities related to surface or underground coal mining but not to subsidence effects of underground mining.

As a result of public comment received during the scoping process on the 522(e) (4) and (5) rulemaking, OSMRE has decided to broaden the scope of the EIS and RIA to address the issue of valid existing rights (VER) under 30 CFR 761.5. Section 522(e) of SMCRA establishes certain prohibitions on mining unless a mining company holds "valid existing rights" for the coal underlying the area in question. Surface coal mining operations are prohibited on lands within National Parks, Wildlife Refuges, and Wilderness Areas, and with certain exceptions National Forests, places listed on the National Register of Historic Places, public parks, within 100 feet of cemeteries and public roads, and within 300 feet of occupied dwellings, public buildings, schools, and churches.

OSMRE has promulgated rules to define VER on two occasions. In 1979, VER was defined as those property rights in existence on August 3, 1977, which authorize the applicant to produce coal by a surface coal mining operation and the applicant either had obtained all necessary permits to mine prior to the enactment of SMCRA or can demonstrate that the coal is both needed for, and immediately adjacent to an ongoing operation for which all permits were obtained prior to August 3, 1977. A reviewing court remanded the "all permits" portion of this rule, stating that a good faith attempt to obtain all permits before the August 3, 1977, cutoff date should suffice for meeting the all permits trust (In Re: Permanent Surface Mining Regulation Litigation, No. 79-1144, D.D.C. February 26, 1980).

In 1983, VER was defined to exist when application of the prohibitions in section 522(e) would effect a taking of private property which would entitle the owner to just compensation under the Fifth and Fourteenth amendments to the United States Constitution. The court remanded this rule for further notice and comment (In Re: Permanent Surface Mining Regulation Litigation, No. 79-1144, D.D.C. March 22, 1985).

Possible options for interpreting VER to be addressed in the National Environmental Policy Act process include but are not limited to the following:

(1) VER exists when the person proposing to conduct surface coal mining operations on lands protected by section 522(e) of SMCRA had been validly issued, or had made a good faith effort to obtain, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands.

(2) VER exists for those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document that establishes a right to the coal resource and authorizes the extraction of coal by the method intended, as determined by the laws of the State in which the property is located.

(3) VER means those property rights, as defined by the laws of the State in which the property is located, that existed on August 3, 1977, for an area protected by section 522(e) of the Act that, if denied, would effect a taking of property that would entitle the person to just compensation under the Fifth and Fourteenth amendments to the United States Constitution.

(4) VER means that for lands listed in section 522(e)(1), i.e., lands within the boundaries of units of the National Park System, National Wildlife Refuge Systems, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers, and National Recreation Areas, a person proposing to conduct surface coal mining operations had been validly issued, or had made a good faith effort to obtain, on or before August 3, 1977, all State and Federal permits necessary to conduct such operations on those lands. VER means that for lands and features listed in section 522(e)(2), (3), (4) and (5), i.e., National Forests, publicly owned parks, places included on the National Register of Historic Places, public roads, occupied dwellings, etc., VER will exist for those property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, deed, contract, or other document that establishes a right to the coal resource and authorizes the extraction of coal by the method intended, as determined by the laws of the State in which the property is located.

(5) No action.

OSMRE specifically requests comments on the range of actions and environmental impacts associated with the aforementioned issues both individually and collectively and on the specific alternatives that should be

evaluated in the EIS and RIA. OSMRE is also interested in any other comments, suggestions, or recommendations the public may have on the various issues involved in this proposed action on the scope of the analyses.

Executive Order 12291 of February 17, 1981, requires that an analysis of proposed regulations be conducted to determine the economic impact of the regulation. In addition, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires that, in situations where proposed regulations may have a significant economic effect on a substantial number of small entities, the regulatory authority must prepare a small entity flexibility analysis (SEFA). OSMRE has made a determination that the proposed regulations on the applicability of 522(e) prohibitions to coal mining and on VER are significant within the meaning of Executive Order 12291 and the Regulatory Flexibility Act.

Department of Interior procedures provide that the RIA and the SEFA may be combined into a single document and that the RIA may incorporate the analytical requirements of the Regulatory Flexibility Act. OSMRE will address the requirements of both Executive Order 12291 and the Regulatory Flexibility Act in the RIA.

Dated: January 20, 1987.

**Brent Wahlquist,**

*Assistant Director, Program Policy.*

[FR Doc. 87-1399 Filed 1-21-87; 8:45 am]

BILLING CODE 4310-05-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 152

**[OPP-36101A; FRL-3145-7]**

### Regulations for the Imposition of Fees for Certain Activities Conducted Under the Federal Insectide, Fungicide, and Rodenticide Act, as Amended; Extension of Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This notice announces the extension of the comment period for a proposed rule, published in the **Federal Register** on November 26, 1986 (51 FR 42974), to impose fees for certain activities conducted under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The comment period has been extended from January 26, 1987 to February 26, 1987.

**DATE:** Comments must be received on or before February 26, 1987.

**ADDRESS:** Submit three copies of written comments, identified with the document control number "OPP-36101A," by mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this proposed rule may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

*By mail:* Robert S. Brennis, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

*Office location and telephone number:* Rm. 1002-C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1127).

**SUPPLEMENTARY INFORMATION:** EPA issued a proposed rule, published in the **Federal Register** of November 26, 1986 (51 FR 42974), in which EPA proposed to collect fees for certain activities EPA conducts under FIFRA, 7 U.S.C. 136 et seq., as amended, and the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 321 et seq., as amended. The authority for this rulemaking is 31 U.S.C. 9701. The document also solicits comments on possible future elaborations of such a fee system, including annual fees to recover post-registration Agency costs; and differential fees based on Agency costs which relate to the risks of each pesticide or the completeness of the data supporting its registration, or both.

The Chemical Specialities Manufacturers' Association has requested that EPA extend the comment period on this proposed rule in order to allow that Association a meaningful opportunity to comment. In support of this request, the Association points out that the real time for submitting comments to the rule is substantially shorter than the allowed time because of the two major holidays falling within this period.

The Agency has carefully reviewed this request and has concluded that allowing some additional comment time is reasonable to afford all interested parties a meaningful opportunity to comment. Accordingly, the comment period on this proposed rule has been extended 30 days to February 26, 1987.

Dated: January 16, 1987.

**John A. Moore,**

*Assistant Administrator for Pesticides and Toxic Substances.*

[FR Doc. 87-1354 Filed 1-21-87; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 268

**[FRL-3144-7]**

### Hazardous Waste Management System; Land Disposal Restrictions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule; Extension of Public Comment Period.

**SUMMARY:** On December 11, 1986 (51 FR 44714) the Environmental Protection Agency proposed to codify the statutory land disposal restriction levels for a list of hazardous consitutents known as the "California List" wastes. The Agency took this action under section 3004 of the Resource Conservation and Recovery Act (RCRA), as amended. The Agency requested comments on several aspects of the proposed rule.

Today's notice extends the public comment period for this rulemaking. The Agency is taking this action in response to a request for an extension of the comment period.

**DATE:** As a result of this action, comments on this proposed rule must be submitted on or before February 9, 1987.

**ADDRESS:** Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** The RCRA Hotline, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (800) 424-9346 (toll free) or Stephen Weil, (202) 382-4770 in the Washington, DC metropolitan area.

**SUPPLEMENTARY INFORMATION:** On December 17, 1986, the Agency received a request from the American Mining

Congress (AMC) for a 30-day extension to the comment period for the California List land disposal restrictions proposed rule published in the **Federal Register** on December 11, 1986 (51 FR 44714). The AMC requested the extension because they felt that the 48-day comment period was insufficient in light of the holiday vacations, plant closings, and the relative complexity of the proposed rule.

In considering the concerns raised by the American Mining Congress, the Agency has decided to extend the 48-day comment period. However, due to the Agency's stringent schedule for meeting than July 8, 1987, statutory deadline for publication of the California List final rule, the Agency is unable to grant the full 30-day extension as requested by the AMC. Rather, the Agency is extending the comment period on the California List proposed rule for 12 days (so that the comment period will now close on February 9, 1987). This will give all commenters a full 60-day comment period. The Agency believes this extension adequately compensates for the plant closings and holiday vacations, and provides an adequate public comment period on the proposed regulation.

Dated: January 14, 1987.

J.W. McGraw,

*Acting Assistant Administrator.*

[FR Doc. 87-1352 Filed 1-21-87; 8:45 am]

BILLING CODE 6560-50-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### 42 CFR Part 421

**[BPO-057-P]**

## Assignment and Reassignment of Provider-Based Home Health Agencies and Hospices to Designated Regional Intermediaries

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to modify Medicare regulations to require that provider-based HHAs and hospices be served by regional intermediaries designated by HCFA. Audit, cost report settlement, and other fiscal functions (such as setting interim payment rates) would remain the responsibility of the intermediary serving the parent provider. The designated regional intermediaries would process bills, make coverage determinations and payments and would be those same intermediaries (and their service areas) currently designated to serve freestanding HHAs. These revisions would fully implement sections 1816 (e)(4) and (e)(5) of the Social Security Act.

**DATE:** Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on March 23, 1987.

**ADDRESS:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-57-P, P.O. Box 26676, Baltimore, Maryland 21207.

If your prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BPO-057-P). Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Indpendence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

**FOR FURTHER INFORMATION, CONTACT:**

Toba M. Winston, (301) 597-0471 regarding intermediary selection

Norman Fairhurst, (301)) 594-9498 regarding transition.

**SUPPLEMENTARY INFORMATION:**

### Background

In the Medicare program, in general, intermediaries under contract with HCFA are responsible for making payment to providers of services for the covered services they furnish to Medicare beneficiaries.

Section 1816 of the Social Security Act (the Act permits any group or association of providers to nominate an intermediary to determine the proper amount of reimbursement and to make that reimbursement. As amended in 1977, this section authorized the Secretary to assign and reassign providers that had nominated intermediaries to other intermediaries, and to designate regional or national intermediaries for a class or classes of providers, if he determines that to do so would result in the more effective and efficient administration of the program (section 1816(e) of the Act).

*Home Health Agencies*

In 1980, Pub. L. 96-499 further amended section 1816(e) of the Act by adding a new paragraph (4). Section 1816(e)(4) of the Act requires the Secretary to assign home health agencies to designated regional intermediaries, except that he may assign a home health agency that is a subdivision of a hospital (and that agency and hospital are affiliated or under common control) only if, after applying criteria relating to administrative efficiency and effectiveness he shall promulgate, he determines that to do so would result in more effective and efficient administration of the Medicare program.

To implement the provisions of section 1816(e)(4) of the Act, we amended our regulations (42 CFR 421.117) to require that all freestanding HHAs served by a nominated intermediary be served instead by a regional intermediary designated by HCFA (47 FR 38535, September 1, 1982). At that time, in the preamble to those amendments, we defined "regional" as meaning "State" and we designated one intermediary to serve freestanding HHAs in each State. We also amended our regulations (42 CFR 421.103) concerning providers' options to elect to receive payments directly from HCFA rather than through a fiscal intermediary (49 FR 3648, January 30, 1984). These regulations clarified our authority to contract out the workload of HHAs that dealt directly with us instead of through fiscal intermediaries. Effective February 29, 1984, we required the direct dealing freestanding HHAs to receive payments from the designated regional intermediaries. In addition, we made available to HHAs the option of requesting an alternative designated intermediary if the HHA could demonstrate that such an arrangement would be consistent with the effective and efficient administration of the Medicare program. (42 CFR 421.117 (e), (f) and (g), 47 FR 3660, January 30, 1984). As a result of these revisions, all freestanding HHAs were assigned to designated regional intermediaries.

In 1984, section 2326 of the Deficit Reduction Act (Pub. L. 98-369) amended section 1816(e)(4) to require that, by not later than July 1, 1987, HCFA reduce the number of designated regional home health intermediaries to not more than ten. Accordingly, on February 13, 1986, we published a final notice designating ten regional intermediaries to serve freestanding home health agencies (51 FR 5403). (See "Proposed Regulations" section for a listing of the designated

intermediaries and their service areas.) Before publishing our final notice, we published a proposed notice (50 FR 14162). Of the 272 letters we received commenting on the proposed notice, 121 letters had comments recommending that we also assign provider-based HHAs to the designated intermediaries. (An HHA is determined to be provider-based when it is an integral and subordinate part of a Medicare provider and is operated with other departments of the provider under common licensure, governance, and professional supervision; that is, all services of both the provider and the HHA are fully integrated.) We received only three letters supporting the current policy that a provider-based HHA be served by the intermediary that serves the parent provider.

*Hospices*

Section 122 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) added hospice care as a Medicare benefit and also added a new paragraph (5) to section 1816(e) of the Act. Section 1816(e)(5) of the Act requires the Secretary to designate the intermediary that will serve each hospice, except that with respect to a hospice that is a subdivision of another Medicare provider (and the hospice and parent provider are under common control) due regard be given to the intermediary serving the parent provider.

To implement the provisions of section 1816(e)(5), we amended our regulations at 42 CFR 421.117 to require that (1) freestanding hospices receive payment through an intermediary designated by HCFA; (2) hospices that are subdivisions of another Medicare provider that elected to receive payments through an intermediary receive payment through the same intermediary which serves the parent provider; and (3) hospices that are subdivisions of another Medicare provider that elected to deal directly with HCFA receive payment through an intermediary designated by HCFA. (48 FR 56036, December 16, 1983).

Currently, HCFA has designated two intermediaries to serve freestanding hospices and provider-based hospices in category (3) above. The Prudential Insurance Company of America serves hospices located in States east of the Mississippi River and Blue Cross of California serves hospices located in States west of the Mississippi River. The entire States of Minnesota and Louisiana are served by Blue Cross of California.

**Proposed Regulations**

*A. Assignment of Provider-Based HHAs to Designated Regional Intermediaries*

We propose, under the provisions of section 1816(e)(4) of the Act, to assign all provider-based HHAs to designated regional intermediaries.

With respect to hospital-based HHAs, the above section states that the Secretary shall assign hospital-based HHAs to designated intermediaries only if, after applying criteria relating to administrative efficiency and effectiveness as the Secretary may promulgate, it is determined that such assignment would result in the more effective and efficient administration of the Medicare program. We have established a set of criteria that are applicable to this issue and have determined, based on the application of the criteria listed and discussed below, that the assignment of hospital-based HHAs to designated regional intermediaries could be expected to result in more effective and efficient administration of the program. Additionally, although not required to do so, we have also determined, based on the application of these criteria, that the assignment of HHAs that are based in a Medicare provider other than hospital (e.g., based in a Medicare skilled nursing facility) could also be expected to result in more effective and efficient administration of the program.

To determine whether provider-based HHAs should be assigned to designated regional intermediaries, we identified the following characteristics of effective and efficient Medicare program administration to be used as criteria against which to judge the mass transfer of provider-based HHAs:

- Uniform interpretation of Medicare rules
- Expertise in bill processing
- Control of administrative costs
- Ease of communication of program policy and issues to affect providers
- Ease of data collection
- Ease of HCFA's monitoring of intermediary performance.

How these criteria were applied as a test to determine whether provider-based HHAs should be assigned to designated regional intermediaries is discussed below.

1. Uniform Interpretation of Medicare Rules—Assignment of Provider-Based HHAs to Designated Regional Intermediaries Must Facilitate Uniformity in Interpreting Medicare Rules

Guidelines are subject to interpretation; consequently, we have found that inconsistencies may arise whenever there is more than one intermediary making coverage determination or implementing policy. Therefore, one of the important goals of the Deficit Reduction Act of 1984 in limiting the number of designated home health intermediaries is to facilitate uniformity in interpreting Medicare rules. However, by assigning only freestanding HHAs to the ten designated intermediaries, we have been unable to reduce either the total number of intermediaries serving HHAs or, in the most cases, the number of intermediaries serving providers within a State. In fact, current practice has increased by one per State in 31 States the number of intermediaries serving HHAs. By assigning the provider-based HHAs to the designated intermediaries, we will reduce the number of intermediaries responsible for interpreting HHA coverage determination and, thereby, be in a better position to achieve the goal of the legislation.

2. Expertise in Bill Processing—Assignment of Provider-Based HHAs to Designated Regional Intermediaries Must Ensure That HHA Bills Are Processed by an Intermediary With Expertise in Processing and Adjudicating Home Health Bills

Because many intermediaries currently process small volumes of HHA bills they have little opportunity to gain proficiency in the processing and adjudication of this bill type. Once the transition of freestanding HHAs to the designated regional intermediaries is completed, the only HHA workload that the intermediaries not among the ten designated intermediaries will process would be for provider-based HHAs. Because of this reduction of an already small workload, these intermediaries will have even less opportunity to develop expertise in processing the home health workload. On the other hand, the designated regional intermediaries will have a volume of HHA bills sufficiently large to enable them to gain such expertise. This experience should result in more consistent and accurate coverage determinations and new bill processing efficiencies. Reassigning provider-based HHAs to the designated intermediaries would ensure that their bills are processed by intermediaries that have expertise in the processing and adjudication of HHA bills.

3. Control of Administrative Costs—Assignment of Provider-Based HHAs to Designated Intermediaries Must Have the Potential To Reduce Administrative Costs

As administrator of the Medicare program, HCFA seeks to control or reduce administrative costs by means that will not adversely affect the level and quality of service provided beneficiaries and providers of service. Concentrating the workload from a particular class of providers in fewer intermediaries has the potential to do this through cost avoidance. At present there is not a standardized automated bill processing system in use by all intermediaries. Because of this, when a Medicare program change requires a change in the automated bill processing system, HCFA must fund this activity at numerous sites. Currently, a change in the home health program could require that HCFA fund systems changes at more than 50 sites.

Absent a standard system, administrative dollars could be saved by reducing the number of intermediaries processing home health bills, thus reducing the number of systems needing to be changed. Assigning provider-based HHAs to the ten designated home health intermediaries would do this, thus potentially saving administative dollars.

4. Ease of Communication With HHAs—Assignment of Provider-Based HHAs to Designated Regional Intermediaries Must Facilitate Communication of Program Policy and Issues

It is important that Medicare program policy be clearly and uniformly understood by Medicare intermediaries if we are to achieve consistency in coverage and reimbursement determinations, as well as other program areas. It is difficult to insure this because of the large number of intermediaries involved and because guidelines, no matter how well written, are frequently subject to interpretation.

Communication of home health program policy would be facilitated (and less costly) if the number of intermediaries processing home health bills were reduced as a result of assigning provider-based HHAs to the ten designated intermediaries. HCFA's resources would not be "spread thin" and could be employed more effectively.

5. Ease of Data Collection—Assignment of Provider-Based HHAs to Designated Regional Intermediaries Should Facilitate Data Collection

The collection and maintenance of data are vital to efficient and effective program administration. Collection and verification of home health data would be facilitated if the number of intermediaries processing home health bills were reduced. It is obviously less time consuming to gather and analyze data from ten sources than from over 50.

6. Ease of HCFA Monitoring of Intermediary Performance—Assignment of Provider-Based HHAs to Designated Regional Intermediaries Should Facilitate HCFA's Monitoring of Intermediary Performance

Monitoring intermediary performance requires considerable expenditures in time and personnel. Monitoring intermediary performance relative to home health agencies should be improved if HCFA needed to focus its attention on only ten intermediaries rather than 50 or more. This more effective use of resources should lead to earlier identification of problems and quicker corrective actions.

All of the criteria except number 2 above would be met simply by virtue of transferring all HHA providers to the ten intermediaries. For example, we believe it is obvious that it would be more efficient and less costly to send out ten sets of instructions rather than more, to collect data from ten intermediaries than to collect it from more, or to make data processing systems changes at ten intermediaries rather than more.

It is not as evident that criterion number 2 has been met. However, we believe the rationale presented is sound. We are proposing to transfer HHAs to intermediaries whose longterm overall performance indicates they are effective and efficient and we believe that once the HHAs are transferred to the designated intermediaries, performance data will substantiate the accuracy of our projection.

We are therefore proposing to amend our regulations at 42 CFR 421.117 to require provider-based HHAs to be assigned to designated regional intermediaries. The intermediaries that would be designated to serve provider-based HHAs would be the same intermediaries currently designated to serve the freestanding HHAs. These intermediaries and the areas they serve are:

1. Associated Hospital Service of Maine—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

2. The Prudential Insurance Company of America—New Jersey, New York, Puerto Rico and the Virgin Islands.

3. Blue Cross of Greater Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia.

4. Blue Cross and Blue Shield of South Carolina—Kentucky, North Carolina, South Carolina and Tennessee.

5. Aetna Life and Casualty—Alabama, Florida, Georgia and Mississippi.

6. Blue Cross and Blue Shield United of Wisconsin—Wisconsin, Michigan and Minnesota.

7. Health Care Service Corporation (Chicago, Illinois)—Illinois, Indiana and Ohio.

8. New Mexico Blue Cross and Blue Shield, Inc.—Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

9. Blue Cross of Iowa, Inc.—Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming.

10. Blue Cross of California—Alaska, Arizona, California, Hawaii, Idaho, Oregon, Nevada and Washington.

We are also proposing to grant provider-based HHAs the same opportunity afforded freestanding HHAs to request to be served by an alternative designated regional intermediary. We would not grant these requests automatically; rather, we would require an HHA to demonstrate that the change to the alternative designated regional intermediary would be consistent with the effective and efficient administration of the Medicare program. The requests would have to be filed in accordance with the timetable established at 42 CFR 421.106(a) and would be evaluated in accordance with criteria contained at 42 CFR 421.106(b).

Since the preamble to our final rule that established the alternative designated intermediaries (49 FR 3647) did not specifically discuss newly-participating HHAs, we wish to take this opportunity to clarify our policy regarding their option to request to be served by the alternative designated intermediaries. Newly-participating HHAs are to be served by the designated intermediary. Any requests to be served by the alternative designated intermediaries are subject to the provisions of 42 CFR 421.106.

The intermediaries that would be designated as alternative designated intermediaries for provider-based HHAs and the areas in which they would be available are:

The Prudential Insurance Company of America—Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia;

Blue Cross of Iowa, Inc.—Alaska, Arizona, Arkansas, California, Hawaii, Idaho, Illinois, Indiana, Louisiana, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Puerto Rico, Texas, Virgin Islands, Washington and Wisconsin; and

Blue Cross of California—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

Some provider-based HHAs and their parent providers (i.e., the providers of which the HHAs are a part) have expressed a concern that assigning the provider-based HHA to a designated intermediary while the parent provider continues to be served by the local intermediary would cause confusion. We believe we have addressed these concerns because where the HHA and parent would be served by different intermediaries, audit and cost report settlement for both would remain the responsibility of the intermediary serving the parent provider. Bill processing, making coverage determinations and making payments would be done by the respective intermediary for each facility. In the case of the HHA, this would be the designated regional intermediary. We thus clearly delineate responsibilities and authorities.

*B. Assignment of All Hospices to Designated Intermediaries*

We are proposing to amend our current regulations at 42 CFR 421.117(c), to be redesignated as 421.117(d), to assign provider-based hospices to designated regional intermediaries. While we have designated two intermediaries to serve freestanding hospices, this has not resulted in a concentration of the workload. There are many intermediaries processing small provider-based hospice bill workloads. We are proposing that the intermediaries designated to serve hospices be those same intermediaries designated to serve HHAs. As of April 1, 1986, there were a total of 253 participating Medicare hospices; 72 were freestanding and 181 were provider-based. One hundred and thirteen of the 181 provider-based hospices were based in freestanding HHAs, 58 were based in hospitals and ten were based in SNFs. We are requiring, based on current regulations, that the 113 HHA-based hospices be assigned along with their parent HHAs to the designated HHA intermediary. Therefore, an indirect result of the freestanding HHA workload consolidation is a concentration of hospice workload in the ten intermediaries designated to serve HHAs. We believe it makes sense to make this concentration complete. It is for this reason we are proposing that the intermediaries designated to serve HHAs also be designated to serve hospices.

Although there would be an increase (from two to ten) in the number of intermediaries serving freestanding hospices, there would be a significant reduction in the number of intermediaries serving provider-based hospices (from a current 37 to ten). (If we do not assign provider-based hospices to the designated intermediaries, the number of intermediaries processing hospice claims has the potential to increase to over 50.) As of October 1, 1985, a maximum of 61 provider-based hospices would need to be reassigned to a designated intermediary as a result of this proposed regulation.

We are proposing that the settlement of the Medicare cost report, including the supplemental hospice worksheets, continue to be the responsibility of the intermediary serving the parent provider.

We plan to assign newly-participating freestanding hospices to the intermediary designated for its location. To minimize the reassignments that would otherwise be caused by the proposed regulations, freestanding hospices currently served by Prudential or Blue Cross of California may, if they wish, continue to be served by those intermediaries. This policy would represent an exception to the general rule, but we do not wish to disrupt more hospices than necessary (see § 421.117(h)).

We are also proposing to grant hospices the opportunity to request to be served by an alternative designated regional intermediary. We would not grant these requests automatically; rather, just as we require for other providers, we would require a hospice to demonstrate that the change to the alternative designated regional intermediary would be consistent with the effective and efficient administration of the Medicare program. The requests would have to be filed in accordance with the timetable established at 42 CFR 421.106(a) and would be evaluated in accordance with criteria contained at 42 CFR 421.106(b). The intermediaries that would be designated as alternative designated regional intermediaries and the areas in which they would be available are the same as those listed above for HHAs.

We are making this proposal in the interest of achieving greater effectiveness and efficiency in administering the Medicare hospice benefit. The criteria relating to effective and efficient administration listed above in connection with HHAs also apply to hospices.

Section 1816(e)(5) requires that before assigning provider-based hospices to designated intermediaries, due regard be given to the intermediary serving the parent provider. We do not believe reassignment of the provider-based hospices would have a negative impact on the intermediaries currently serving them. The largest number of hospice providers that we would eliminate from an intermediary's list of providers is five. In the majority of cases, only one hospice would be eliminated from the list. A loss of so few providers would not have a detrimental effect on the involved intermediaries.

*C. Technical Changes*

We are proposing to amend the definition of "Intermediary" at 42 CFR 421.3 to clarify that we have designated intermediaries for all HHAs. We would do this by changing the term "freestanding HHAs" to "HHAs".

In addition to the other proposed changes to redesignated § 405.117(d), we would also delete the clause, "Except for certain hospice physician services, which are generally reimbursed by carriers." Carriers have never reimbursed hospice physician services; so this clause is inaccurate (see 42 CFR 418.304).

We would delete 42 CFR 421.117(g), which gave freestanding providers dealing directly with HCFA 30 days from January 30, 1984 to request to transfer to the alternative designated regional intermediary without having to prove the transfer would result in more effective and efficient administration. This paragraph is now obsolete.

We are proposing to amend 42 CFR 421.128(f) by deleting the word "freestanding" to show that, under section 1816(e)(4) of the Act, an intermediary that loses either freestanding or provider-based HHAs or hospices as a result of the reassignment or by the designation of regional intermediaries does not have the right to appeal any adverse effect.

**Implementation**

We expect that approximately 1,100 provider-based HHAs and approximately 60 provider-based hospices would be reassigned to another intermediary under this proposal.

*A. Notification to Providers*

HCFA plans to send a notice to each affected HHA and hospice, advising it of

the name of its designated regional intermediary and the scheduled changeover date for bill submittals.

*B. Transfer Schedule*

Providers would receive at least a 60-day notice prior to the date of the changeover. Because fiscal functions would remain the responsibility of the intermediary serving the parent provider, we do not believe it is necessary to base transfers on the provider cost report year ending date. We plan to complete the transfer of the intermediary functions for HHAs within nine months after the effective date of the final rule. Because of the relatively few hospice providers involved, we plan to complete the tranfer of intermediary functions for hospices within 90 days after the effective date of the final rule.

*C. Procedures During the Change-Over Period*

We would notify each affected HHA and hospice by mail of procedures to follow during the changeover process. We plan to arrange for an orderly transition of service.

1. Bills for services provided before the changeover date would be submitted to the current intermediary. This same intermediary would continue to be responsible for the settlement of cost reports, prior unsettled cost reports, any appeals arising from those cost reports, and all other fiscal issues.

2. All bills for services provided on and after the changeover date would be submitted to the designated intermediary.

3. We are continuing ombudsmen-type positions established in each HCFA regional office to assist providers in resolving any problems encountered during the transition or thereafter.

*D. Assurance of Cash Flow*

We would make every effort to assure that there would be no interruption of cash flow to HHAs or hospices. We would work closely with the designated intermediary, HHAs and hospices to identify and resolve problems that could potentially interrupt the provider's cash flow.

*E. Transition Costs*

HHA costs incurred due to the transfer would be allowable and reimbursable under established Medicare reimbursement principles. If the HHA's costs exceed the limits as the result of the required transfer to a designated regional intermediary, an exception to the limits may be granted, to the extent that the costs are reasonable, attributable to the circumstances specified, separately identified by the provider and verified by the intermediary. Requests for transition cost exceptions would be processed by HCFA consistent with the provisions for handling other exceptions requested under 42 CFR 405.460(f)(2).

In the case of hospices, there is no legislative or regulatory basis for exceptions to the rates or cap.

**Regulatory Impact Statement**

*A. Executive Order No. 12291*

Executive Order No. 12291 (46 FR 13193) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that are likely to meet criteria for a "major rule".

A major rule is one that would result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or any geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This document contains our description of how we propose to interpret and implement sections 1816(e)(4) and (5) of the Act. We believe it is not a major rule. Nevertheless, in the spirit of the Executive Order, we are voluntarily providing the following information.

We project that, under our proposal, 1,100 provider-based HHAs and approximately 60 provider-based hospices would be reassigned from their present intermediary to a different intermediary. We project that we would incur one-time administrative costs of $1.5 million for travel and training relating to the reassignment of these providers. We expect to achieve some administrative savings as a result of the consolidation of the HHAs and hospices and the reduction in the number of intermediaries serving them. Savings would be associated with economies-of-scale that would lower unit processing costs. The potential savings, coupled with the one-time costs, would not exceed the $100 million threshold and would not produce a major increase in cost or prices.

Generally, we consider an adverse effect on employment, productivity, innovation, or competition to be significant only if that effect is equivalent to an economic loss of $10 million or more, and the adverse effect results in a 10 percent or greater change in a year for a common measurement of an economic variable of the affected entities. For the reasons discussed above, we expect these proposed reassignments to have beneficial, rather than adverse, effects on productivity and possibly on innovations. Further, although the reassignment of provider-based HHAs and hospices to fewer intermediaries might result in a reduced level of employment by those intermediaries that would no longer serve those providers, we do not believe this would be of a significant magnitude.

Finally, we have determined that this notice would not have an adverse effect on competition. Section 1816 of the Act gives providers the right to nominate their serving intermediary. Because of this, HCFA, in selecting intermediaries, is exempt by operation of law from the requirement of competition that governs most Federal procurements. Historically, with the exception of a few contracts entered into under experimental or demonstration contracting authority, intermediaries have been administratively selected without competition. This designation of regional intermediaries for provider-based HHAs and hospices is consistent with this existing policy. For the above reasons, we have determined that the assignment and reassignment of provider-based HHAs and hospices to the designated regional intermediaries would not meet any of the criteria for identifying major rules. Therefore, a regulatory impact analysis is not required.

*B. Regulatory Flexibility Act*

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant impact on a substantial number of small entities. For purposes of the RFA, we consider all providers to be small entities.

For the reasons given, we have determined, and the Secretary certifies, that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required. Nevertheless, in the spirit of E.O. 12291 and the RFA, we are voluntarily providing the following information.

This proposal would have an impact upon very few hospices. It would, however, require reassignment of a substantial number of provider-based HHAs to the designated regional intermediaries and, for purposes of regulatory flexibility analysis, we

consider all providers and other entities participating in Medicare to be small entities. However, we have determined that the impact on the affected entities would be insignificant.

Since audit and fiscal functions would remain the responsibility of the affected providers' current intermediaries, the impact of assignment to the designated intermediaries would be slight. Additionally, we would provide reasonable advance notice of the changeover date and would try to assure a continued cash flow for each of the affected providers. For these reasons, we believe, and the Secretary certifies, that this rule would not result in a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

*C. Paperwork Burden*

Section 421.117(f) of this proposed rule contains information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official whose name appears in the preamble and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, ATTN: Desk Officer for HCFA.

**Response to Comments**

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

**List of Subjects in 42 CFR Part 421**

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 421 is proposed to be amended as follows:

## PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for Part 421 continues to read as follows:

**Authority:** Secs. 1102, 1815, 1816, 1833, 1842, 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395l, 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

2. Section 421.3 is revised by removing the modifier "freestanding" that applies to home health agencies to read as follows:

**§ 421.3 Definitions.**

"Intermediary" means an entity that has a contract with HCFA to determine and make Medicare payments for Part A or Part B benefits payable on a cost basis and to perform other related functions. For purposes of designating regional or alternative regional intermediaries for home health agencies and of designating intermediaries for hospices under § 421.117 as well as for applying the performance criteria in § 421.120 and the statistical standards in § 421.122 and any adverse action resulting from such application, the term intermediary also means a Blue Cross Plan which has entered into a subcontract approved by HCFA with the Blue Cross and Blue Shield Association to perform intermediary functions.

3. Section 421.117 is amended by redesignating paragraphs (b) through (g) as (c) through (h) respectively, adding a new paragraph (b), and revising paragraphs (a), (c), and (d) through (h). As revised, § 421.117 reads as follows:

**§ 421.117 Designation of regional and alternative designated regional intermediaries for home health agencies and hospices.**

(a) This section is based on section 1816(e)(4) of the Social Security Act, which requires the Secretary to designate regional intermediaries for home health agencies (HHAs) other than hospital-based HHAs but permits him or her to designate regional intermediaries for hospital-based HHAs only if the designation meets promulgated criteria concerning administrative efficiency and effectiveness; on section 1816(e)(5) of the Social Security Act, which requires the Secretary to designate intermediaries for hospices; and on section 1874 of the Act, which permits HCFA to contract with any organization for the purpose of making payments to any provider that elects to receive payment directly from HCFA.

(b) HCFA applies the following criteria to determine whether the assignment of hospital-based HHAs to designated regional intermediaries will result in the more effective and efficient administration of the Medicare program:

(1) Uniform interpretation of Medicare rules;

(2) Expertise in bill processing;

(3) Control of administrative costs;

(4) Ease of communication of program policy and issues to affective providers;

(5) Ease of data collection;

(6) Ease of HCFA's monitoring of intermediary performance; and

(7) Other criteria as the Secretary believes to be pertinent

(c) Except as provided in paragraphs (e), (f), and (g) of this section, an HHA must receive payment through a regional intermediary designated by HCFA.

(d) Except as provided in paragraphs (f) through (h) of this section, a hospice must receive payment for covered services furnished to Medicare beneficiaries through an intermediary designated by HCFA.

(e) An HHA chain not desiring to receive payment from designated regional intermediaries may request service by one lead intermediary with the assistance of a local designated regional intermediary. Alternatively, the chain may request to be serviced by a single intermediary. A lead, local, or a single intermediary must be an organization that is a designated regional intermediary. Any request made under this paragraph is evaluated by HCFA in accordance with the criteria contained at § 431.106 of the subpart.

(f) An HHA or hospice not wishing to receive payment from a regional intermediary designated (under paragraph (c) or (d) of this section) may submit a request to the HCFA Regional Office to receive payment through an alternative regional intermediary designated by HCFA.

(g) Except as provided in paragraph (h) of this section, any request that an HHA or hospice may make to change from a designated regional intermediary to an alternative designated regional intermediary, in accordance with paragraph (f) of this section, is evaluated by HCFA in accordance with the criteria set forth at § 421.106(b) of this subpart and must be filed within the timeframe established at § 421.106(a) of this subpart.

(h) *Exception:* A freestanding hospice that, as of [date of publication of final rule], is receiving payment from a designated regional intermediary may, without regard to the limitations contained in § 421.106 of this subpart, continue to receive payment from that intermediary. It may do so even if that intermediary is not the designated regional intermediary or the alternative designated regional intermediary for the particular State in which the hospice is located.

4. Section 421.128(f) is revised by removing the modifier "freestanding" that applies to home health agencies and hospices to read as follows:

**§ 421.128 Intermediary's opportunity for hearing and right to judicial review.**

* * * * *

(f) *Exception.* An intermediary adversely affected by the designation of a regional intermediary or an alternative regional intermediary for HHAs, or an intermediary for hospices, under § 421.117 of this subpart is not entitled to a hearing or judicial review concerning adverse effects caused by the designation of an intermediary.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: August 19, 1986.

**William L. Roper,**

*Administrator, Health Care Financing Administration.*

Approved: November 6, 1986.

**Otis R. Bowen,**

*Secretary.*

[FR Doc. 87-1364 Filed 1-21-87; 8:45 am]

BILLING CODE 4210-01-M

---

## 42 CFR Parts 405, 416, 418, 442, and 482

**[BERC-358-P]**

## Medicare/Medicaid Programs; Fire Safety Standards for Hospitals, Skilled Nursing Facilities, Hospices, Intermediate Care Facilities and Ambulatory Surgical Centers

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the fire safety standards for hospitals, skilled nursing facilities, hospices, intermediate care facilities and ambulatory surgical centers. It would incorporate by reference the 1985 edition of the Life Safety Code of the National Fire Protection Association. This change primarily would affect new applicants to the program. Current regulations incorporate the 1981 edition of the LSC. The incorporation of the 1985 edition of the LSC is intended to ensure that Medicare and Medicaid providers and recipients have the benefit of the most current fire protection standards. We would retain, but rewrite for clarity, the existing requirements for waivers of specific provisions of the LSC, and provisions for acceptance of a State's fire and safety code in lieu of the LSC. We also would retain the existing provisions for acceptance of compliance with previous editions of the LSC (grandfathering).

**DATE:** To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 pm. on March 23, 1987.

**ADDRESS:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-358-P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-358-P. Comments will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m., to 5:00 p.m. (phone: 202-245-7890).

**FOR FURTHER INFORMATION CONTACT:** Samuel Kidder, (310) 597-5909.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. The Life Safety Code of the National Fire Protection Association*

Since the beginning of the Medicare and Medicaid programs, we have been concerned with ensuring that health care facilities meet certain health and safety requirements to make certain that patients are safe from fire. Generally, the Life Safety Code (LSC) developed by the National Fire Protection Association (NFPA) serves as the basis for governmental regulations, including those of the Medicare and Medicaid programs. Federal, State, and local governmental authorities have adopted the LSC as the basis for laws and regulations and have enforced provisions of the LSC. The LSC is a nationally recognized standard, and includes fire protection requirements necessary to protect patients and residents in health care facilities.

The LSC is designed to provide a reasonable degree of safety from fire and similar emergencies. The LSC covers construction, fire protection, and occupancy features to minimize danger to life from fire, smoke, and fumes. The code may be applied to both new and existing buildings. The development and maintenance of a body of fire safety codes and standards is one of the NFPA's primary functions. The standards development is accomplished by technical committees, which are composed of experts in the fire safety field, and represent a broad spectrum of interests including fire marshals, architects, engineers, and representatives from private industry and government.

The Fire Safety Evaluation System (FSES) for health care facilities was introduced in 1978 and was included as part of the 1981 LSC. The FSES provides health care facilities with an alternative method for achieving compliance other than waivers, if the facility does not meet the Health Care Occupancy Chapter of the LSC.

*B. Hospitals*

Section 1861(e)(9) of the Social Security Act (the Act) requires that, to participate in Medicare, a hospital must meet the health and safety requirements as set forth by the Secretary. In the last sentence of section 1861(e), clause (C) allows for a waiver to be granted to a rural hospital of 50 beds or fewer with respect to fire and safety regulations promulgated under section 1861(e)(9), if specific provisions of the LSC would result in unreasonable hardship, and the safety of patients is not compromised. The Secretary may accept such a facility's compliance with a State's fire and safety code, if imposed by State law, in lieu of the LSC, if that code adequately protects patients.

The above requirements are set forth in the regulations at 42 CFR Part 482, Subpart C—Basic Hospital Functions (published June 17, 1986 at 51 FR 22010). Included in § 482.41(b) are requirements that a hospital must meet the applicable provisions of the 1981 edition of the LSC of the NFPA. It further states that any hospital that, on November 26, 1982, complies with the requirements of the 1967 edition of the LSC, with or without waivers, will be considered to be in compliance with the standard as long as the facility continues to be in compliance with that edition of the LSC.

*C. Skilled Nursing Facilities*

Section 1861(j)(13) of the Act requires skilled nursing facilities (SNFs) participating in Medicare to meet those provisions of the LSC of the NFPA applicable to nursing facilities. That section also provides for waivers of LSC requirements if compliance with a specific requirement would result in unreasonable hardship upon the facility, but only if such waiver would not adversely affect the health and safety of the patients. The provisions of the code shall not apply in any State if the Secretary finds that in the State there is in effect a fire and safety code, imposed

by State law, which adequately protects patients in nursing facilities.

The above requirements are set forth in regulations at § 405.1134, Conditions of participation-physical environment. Included in § 405.1134(a) are requirements that a SNF meet the applicable provisions of the 1981 edition of the LSC of the NFPA. Second, any SNF that, on December 4, 1980, or on November 26, 1982, complied with the requirements of the 1967 or 1973 editions of the LSC respectively, with or without waivers, will be considered to be in compliance with that edition of the LSC. Also, any facility of two or more stories that is not of fire resistive construction, and is participating on the basis of a waiver of construction type or height, may not house blind, non-ambulatory or physically handicapped patients above the street-level floor unless the facility is one of several specified construction types or achieves a passing score on the Fire Safety Evaluation System (FSES).

*D. Hospices*

Section 1861(dd) of the Act authorizes coverage of and reimbursement for, hospice care. To participate in Medicare, hospices must meet the requirements in the regulations at 42 CFR Part 418, Subpart C—Conditions of Participation. The current hospice standard on fire protection, contained in 42 CFR 418.100(d), requires that a hospice meet the health care occupancy provisions of the 1981 edition of the LSC of the NFPA. A waiver may be granted under § 418.100(e) if compliance with specific provisions of the Code would result in unreasonable hardship for the facility, and the waiver would not adversely affect the health and safety of the patients.

Section 418.100(e) further provides that any facility of two or more stories that is not of fire resistive construction, and is participating on the basis of waiver of construction type or height, may not house blind, non-ambulatory or physically handicapped patients above the street-level floor unless the facility is one of several specified construction types or achieves a passing score on the FSES.

*E. Intermediate Care Facilities*

Section 1905(c) of the Act authorizes optional Medicaid coverage for services in intermediate care facilities (ICFs). These are facilities that provide, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment that a hospital or skilled nursing facility provides. These facilities must meet standards of safety established under Department regulations in addition to those applicable to nursing homes under State law.

Those requirements are set forth in the regulations at 42 CFR Part 442, Subpart F—Standards for Intermediate Care Facilities Other Than Facilities for the Mentally Retarded. Included in §§ 442.321, 442.322 and 443.323 are requirements to ensure that patients are safe from fire.

The current ICF standard on fire protection continued in 42 CFR 442.321—

- Requires that a facility meet the Health Care Occupancies provisions of the 1981 edition of the LSC of the NFPA;
- Provides that if the Secretary finds that the State has a fire and safety code, imposed by State law, the State survey agency may apply the State code in lieu of the LSC, if that code adequately protects residents in ICFs; and
- Provides that any ICF that, on November 26, 1982, complied with the requirements of the 1967 edition of the LSC, with or without waivers, will be considered to be in compliance with the standard as long as the facility continues to be in compliance with that edition of the LSC.

Section 442.322 provides that if an ICF has 15 or fewer beds, the State survey agency may apply the lodgings and rooming houses section of the residential occupancies requirements of the 1981 LSC, instead of the health care occupancy provisions, if the ICF is primarily engaged in the treatment of alcoholism and drug abuse; and a physician certifies that each resident is—

- Ambulatory;
- Engaged in an active program for rehabilitation designed to lead to independent living; and
- Capable of following directions and taking appropriate action for self-preservation.

In addition, § 442.322 provides that any small facility (15 beds or less) that, on November 26, 1982, complies with the requirements of the 1967 edition of the LSC, will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

Section 442.323 provides that a State survey agency may waive specific provisions of the LSC if—

- The waiver would not adversely affect the health and safety of the residents; and
- Rigid application of the LSC would result in unreasonable hardship for the ICF; and
- The waiver is granted in accordance with guidelines issued by HCFA.

Section 442.323 further provides that any facility of two or more stories that is not of fire resistive construction, and is participating on the basis of waiver of construction type of height, may not house blind, non-ambulatory or physically handicapped patients above the street-level floor unless the facility is one of several specified construction types, or achieves a passing score on the FSES.

*F. Ambulatory Surgical Centers*

Section 1832(a)(2)(F) of the Act authorizes the Secretary to specify health and safety regulations for ambulatory surgical centers (ASCs). ASCs must meet the requirements in regulations at 42 CFR Part 416, Subpart B—Ambulatory Surgical Centers: Coverage and Benefits. The current ASC standard on fire protection, contained in 42 CFR 416.44(b), requires that an ASC meet the applicable provisions of the 1981 edition of the LSC of the NFPA. A waiver may be granted under § 416.44(b) if specific provisions of the Code would result in unreasonable hardship upon the ASC, and the waiver will not adversely affect the health and safety of the patients.

**II. 1985 Edition of the Life Safety Code**

The NFPA revises the LSC every 3 to 4 years to reflect advancements in fire protection. In the past, whenever the Secretary determined that a revised LSC contained significant changes which would be in the interest of health and safety, we have revised the regulations accordingly.

A significant change in the 1985 LSC is the inclusion of a new Chapter 21 of the LSC entitled "Residential Board and Care Occupancies." Also, included in the 1985 LSC is a new equivalency evaluation system for Residential Board and Care Occupancies, extending the principles of the FSES developed earlier for other types of occupancies, entitled "Fire Safety Evaluation System for Board and Care Homes" (FSES/BC). Both Chapter 21 and the FSES/BC allow flexibility in the requirements that a facility must meet depending on the clients and the staffing of the facility.

The 1985 LSC contains several other features that clarify Code requirements for health care occupancies:

- A gift shop is no longer automatically considered to be a hazardous area and is not required to be sprinklered or separated by 1 hour fire-rated construction. Fire protection requirements will be dependent upon the fuel load (combustibles) in the area and other factors.

• Stairway doors may now be held open, if this is accomplished by means of approved devices and methods.

• Atriums are now permitted in health care facilities, but some smoke barriers are required.

• All new health care facilities 75 feet high or higher must be fully sprinklered. This change was made in recognition of the fact that most fire department ladders cannot reach above the seventh floor.

**III. Provisions of the Proposed Regulations**

*A. General Description*

We are proposing to amend §§ 405.1134 (SNFs), 416.44(b) (ASCs), 418.100(d) (Hospices), 442.321 (ICFs), and 482.41 (Hospitals) to incorporate by reference the 1985 LSC. We ae proposing to retain the existing requirements in each of these sections for waivers. In addition, we propose to retain acceptance of a State's fire and safety code in lieu of the LSC for hospitals, SNFs and ICFs that meet the Health Care Occupancies Chapters of the LSC. We also propose to retain existing grandfathering provisions for hospitals, SNFs and ICFs that meet the Health Care Occupancies Chapters of the LSC, and we propose to add provisions for grandfathering ASCs and hospices. In addition, we are proposing to rewrite §§ 405.1134(a), 416.44(b), 418.100(d) and (e), and 482.41(b) to improve their clarity without substantive change.

When we use the term "Applicable provisions of the 1985 LSC", we mean that the surveyor has the discretion to apply the chapter of the Code that is pertinent to the type of occupancy being surveyed. For example, if the surveyor determines that a facility provides only personal care, he or she will apply the Residential Board and Care Occupancies Chapter in most cases. On the other hand, if nursing care is provided, the Health Care Occupancies Chapters will be applied in most cases.

*B. SNFs: § 405.1134—Condition of Participation—Physical Environment*

• We are proposing to revise the regulations to require newly participating SNFs to meet the applicable provisions of the 1985 edition of the LSC rather than the 1981 edition currently required.

• We would retain the existing provisions for waivers of specific requirements of the LSC, and the use of a State's fire and safety code, in lieu of the LSC, if that code adequately protects patients in SNFs.

• We would retain the provision that allows a SNF to continue to comply with previous editions, including the 1981 edition, of the LSC. However, we propose to delete the December 4, 1980 date up to which the 1967 and 1973 LCSs could apply. Currently, the regulations specify two dates: December 4, 1980 and November 26, 1982. It is not administratively feasible to establish two dates up to which previous codes could apply. Thus, we have retained the latest date possible.

• We would retain the provision that prohibits the placement of blind, non-ambulatory and physically handicapped patients above the street level floor, if the facility is two or more stories and participating on the basis of a waiver of construction type or height and is not of fire resistive construction.

*C. ASCs: § 416.44—Condition for Coverage—Environment*

• We are proposing to revise the regulations to require newly participating ASCs to meet the applicable provisions of the 1985 edition of the LSC rather than the 1981 edition currently required.

*D. Hospices: § 418.100—Condition of Participation for Freestanding Hospices Providing Inpatient Care Directly*

• We are proposing to revise § 418.100(d) to require newly participating hospices to meet the applicable provisions of the 1985 LSC rather than the 1981 edition currently required.

• We would retain the existing provision for waiver of specific requirements of the LSC, if the waiver will not adversely affect the health and safety of the patients and rigid application of specific provisions of the Code would result in unreasonable hardship for the hospice.

• We are proposing to include a provision that would allow hospices in compliance with the 1981 edition of the LSC to be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

• We would retain the provision for hospices that prohibits the placement of blind, non-ambulatory and physically handicapped patients above the street level floor, if the facility is two or more stories and participating on the basis or a waiver of construction type or height and is not of fire resistive construction.

*E. ICFs: § 442.321—Fire protection*

• We are proposing to revise the regulations to require newly participating ICFs to meet the applicable provisions of the 1985 LSC rather than the 1981 edition currently required.

• We would retain the existing provisions for waivers of specific requirements of the LSC, and the use of a State's fire and safety code, in lieu of the LSC, if that code adequately protects patients in ICFs.

• We would retain the provision that allows an ICF to continue to comply with previous editions, including the 1981 edition, of the LSC.

(We note that final regulations concerning fire safety for ICFs/MR were published in the **Federal Register** on April 18, 1986 (51 FR 13224) and comparably amended fire safety requirements for those facilities).

*F. ICFs: § 442.322—Fire Protection: Exception for Smaller ICFs*

• We are proposing to delete the existing requirement that allows smaller ICFs (15 beds or less) primarily engaged in the treatment of alcoholism and drug abuse to comply with the less stringent lodging and rooming houses section of the residential occupancy requirement of the 1981 edition of the LSC. These less stringent requirements are allowed in the above facilities if a physician certifies that the residents are ambulatory, engaged in active treatment, and capable of following directions. If the proposal to adopt the "applicable provisions" of the 1985 LSC is adopted for ICFs, Chaper 21, the Residential Board and Care chapter, will be among the "applicable provisions." Thus, Chapter 21 would be applied to smaller ICFs primarily engaged in the treatment of alcoholism and drug abuse; depending on the evacuation capability of the residents and staff, the facility could be subject to less stringent physical plant requirements.

*G. ICFs: § 442.323—Fire Protection: Waivers*

• We are proposing to rewrite this section for clarity, without making any substantive changes.

*H. Hospitals: § 482.41(b)—Condition of Participation—Physical Environment*

• We are proposing to revise the regulations to require newly participating hospitals to meet the applicable provisions of the 1985 edition of the LSC rather than the 1981 edition currently required.

• We would retain the existing provisions for waivers of specific requirements of the LSC, and the use of a State's fire and safety code, in lieu of the LSC, if that code adequately protects patients in hospitals.

• We would retain that provision that allows a hospital to continue to comply

with previous editions, including the 1981 edition, of the LSC.

- We would retain the existing provision for waiver of specific requirements of the LSC, but only if the waiver will not adversely affect the health and safety of the patients.
- We also would include a provision that would allow ASCs in compliance with the 1981 edition of the LSC to be considered to be in compliance with this standard as long as the facility remains in compliance with that edition of the Code.

## IV. Regulatory Impact Statement

### *A. Executive Order 12291*

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any proposed regulations that meet criteria for a "major rule". A major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or import markets.

Although we cannot develop an estimate, we believe that the impact of this proposed rule, considering both costs and savings, would not exceed the annual $100 million threshold or other threshold criteria under Executive Order 12291. Therefore, we have not prepared a regulatory impact analysis.

### *B. Regulatory Flexibility Act*

Consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare and publish an initial regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all hospitals, SNFs, hospices, ICFs, and ASCs to be small entities.

The 1985 LSC is basically a liberalization of previous requirements. Certain providers are given alternatives that were not previously available in meeting code requirements. In addition, the major cost factor in the 1985 LSC, the requirement that all new health care facilities 75 feet or higher must be fully sprinklered, is limited to new applicants. We anticipate only a small number of new facilities 75 feet or higher will apply to participate in the program, and that these requirements would not be unduly burdensome for them.

We cannot estimate quantitatively the potential impact of this proposal. We anticipate that the adoption of the Residential Board and Care Chapter of the LSC and the Fire Safety Evaluation System for Board and Care Homes (FSES/BC) would enable some small ICFs to serve more residents in a wider variety of settings with reduced captial expenditures for fire protection features. Since the Residential Board and Care Occupancy Chapter of the LSC and FSES/BC provides for various methods of achieving needed fire protection features, small ICFs eligible for the exception under § 442.322 would be able to tailor fire protection capital improvements to the specific needs of residents and staff.

For the reasons given, we have determined, and the Secretary certifies, that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required.

### *C. Paperwork Reduction Act of 1980*

These proposed changes would not impose information collection requirements. Consequently, they need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3015 et seq.).

## V. Response to Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

## List of Subjects

*42 CFR Part 405*

Administrative practice and procedure, Health facilities, Health professions, Incorporation by reference, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

*42 CFR Part 416*

Health facilities, Health professions, Incorporation by reference, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 418*

Health facilities, Hospice care, Incorporation by reference, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 442*

Grant programs-health, Health facilities, Health professions, Incorporation by reference, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

*42 CFR Part 482*

Administrative practice and procedure, Certification of compliance, Contracts (Agreements), Health care, Health facilities, Incorporation by reference, Health professions, Hospitals, Laboratories, Medicare, Onsite surveys, Outpatient providers, Reporting requirements, Rural areas, X-rays.

We are proposing to amend 42 CFR Chapter IV as set forth below:

I. Part 405 is amended as follows:

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

### Subpart K—Conditions of Participation; Skilled Nursing Facilities

1. The authority citation for Subpart K continues to read as follows:

**Authority:** Secs. 1102, 1861(j), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x(j), and 1395hh), unless otherwise noted.

2. In §405.1134, the introductory text preceding paragraph (a) is republished, and paragraph (a), and the footnote are revised to read as follows:

**§ 405.1134 Condition of participation—physical environment.**

The skilled nursing facility is constructed, equipped, and maintained to protect the health and safety of patients, personnel, and the public.

(a) *Standard: Life safety from fire.* Except as provided in paragraphs (a)(1) through (a)(3) of this section, the skilled nursing facility must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference).[1]

[1] Incorporation of the 1985 edition of the National Fire Protection Association's Life Safety Code (published February 7, 1985; ANSI/NFPA) was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 that govern the use of incorporations by reference. The Code is available for inspection at the Office of the **Federal Register** Information Center, Room 8401, 1100 L Street, NW, Washington, DC. Copies may be obtained from the National Fire Protection Association, Batterymarch Park, Quincy, Mass.

Continued

(1) A skilled nursing facility is considered to be in compliance with this standard so long as the facility—

(i) On November 26, 1982, complied, with or without waivers, with the requirements of the 1967 or 1973 editions of the Life Safety Code and continues to remain in compliance with those editions of the Code; or

(ii) On (30 days after publication of final rule) complied, with or without waivers, with the 1981 edition of the Life Safety Code and continues to remain in compliance with that edition of the Code.

(2) After consideration of State survey agency findings, HCFA may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) The provisions of the Life Safety Code do not apply in a State where HCFA finds, in accordance with applicable provisions of section 1861(j)(13) of the Social Security Act, that a fire and safety code, imposed by State law, adequately protects patients in skilled nursing facilities.

(4) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility:

(i) Is one of the following construction types (as defined in the Life Safety Code)—

(A) Type II (1, 1, 1)—protected non-combustible;

(B) Fully sprinklered Type II (0, 0, 0)—non-combustible;

(C) Fully sprinklered Type III (2, 1, 1)—protected ordinary;

(D) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(ii) Achieves a passing score on the Fire Safety Evaluation System (FSES).

* * * * *

II. Part 416 is amended as follows:

## PART 416—AMBULATORY SURGICAL SERVICES

### Subpart B—Ambulatory Surgical Centers: Coverage and Benefits

1. The authority citation for Part 416 continues to read as follows:

**Authority:** Secs. 1102, 1138(a)(2), 1833, 1863 and 1864 of the Social Security Act (42 U.S.C. 1302, 1395k(a)(2), 1395l, 1395z and 1395aa).

2. Section 416.44 is amended by revising paragraph (b) and the footnote to read as follows:

**§ 416.44 Condition for coverage—Environment.**

* * * * *

(b) *Standard: Safety from fire.* (1) Except as provided in paragraphs (b) (2) and (3) of this section, the ASC must meet the provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [1] that are applicable to ambulatory surgical centers.

(2) In consideration of a recommendation by the State survey agency, HCFA may waive, for periods deemed appropriate, specific provisions of the Life Safety Code which, if rigidly applied would result in unreasonable hardship upon an ASC, but only if the waiver will not adversely affect the health and safety of the patients.

(3) Any ASC that, on (30 days after publication of the final rule) complies with the requirements of the 1981 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard, as long as the ASC continues to remain in compliance with that edition of the Life Safety Code.

* * * * *

III. Part 418 is amended as follows:

## PART 418—HOSPICE CARE

### Subpart C—Conditions of Participation

1. The authority citation for Part 418 continues to read as follows:

**Authority:** Secs. 1102, 1811–1814, 1861–1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395c-1395f, 1395x-1395cc and 1395hh).

2. Section 418.100 is amended by revising paragraph (d) to read as follows; removing paragraph (e); redesignating the current paragraphs (f) through (l) as (e) through (k); and by amending redesignated (f)(2) by changing the reference "(g) (i) (v) and (vi)" to "(f) (i) (v) and (vi)."

**§ 418.100 Condition of participation for freestanding hospices providing inpatient care directly.**

* * * * *

(d) *Standard: Fire protection.* (1) Except as provided in paragraphs (d) (2) and (3) of this section, the hospice must meet the provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [1]) that are applicable to hospices.

(2) In consideration of a recommendation by the State survey agency, HCFA may waive, for periods deemed appropriate, specific provisions of the Life Safety Code which, if rigidly applied would result in unreasonable hardship for the hospice, but only if the waiver would not adversely affect the health and safety of the patients.

(3) Any hospice that, on (30 days after publication of the final rule) complies with the requirements of the 1981 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard, as long as the hospice continues to remain in compliance with that edition of the Life Safety Code.

(4) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility:

(i) Is one of the following construction types (as defined in the Life Safety Code)—(A) Type II (1, 1, 1)—protected non-combustible; (B) Fully sprinklered Type II (0, 0, 0)—non-combustible; (C) Fully sprinklered Type III (2, 1, 1)—protected ordinary; (D) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(ii) Achieves a passing score on the Fire Safety Evaluation System (FSES).

* * * * *

IV. Part 442 is amended as follows:

## PART 442—STANDARDS FOR PAYMENTS FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

### Subpart F—Standards for Intermediate Care Facilities Other Than Facilities for the Mentally Retarded

1. The authority citation for Part 442 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act, (42 U.S.C. 1302) unless otherwise noted.

2. In Subpart F, § 442.321 is amended by revising paragraphs (a) and (c) to read as follows

**§ 442.321 Fire protection.**

(a) Except as provided in § 442.323 and paragraph (b) of this section, the ICF must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection

02269. If any changes in this code are also to be incorporated by reference, a notice to that effect will be published in the Federal Register.

[1] See footnote to § 405.1134 of this chapter.

[1] See footnote to § 405.1134 of this chapter.

Association which is incorporated by reference.[1]

* * * * *

(c) Any facility that on November 26, 1982 complies with the requirements of the 1967 edition of the Life Safety Code, or, on (30 days after publication of the final rule) complies with the requirements of the 1981 edition of the Life Safety Code, with or without waivers, will be considered to be in compliance with this standard as long as the facility continues to remain in compliance with that edition of the Code.

**§ 442.322 [Removed]**

3. Section 442.322 is removed.

4. Section 442.323 is revised to read as follows:

**§ 442.323 Fire Protection: Waivers.**

The State survey agency may waive specific provisions of the Life Safety Code required by § 442.321, for as long as it considers appropriate, if—

(a) The waiver would not adversely affect the health and safety of the residents;

(b) Rigid application of specific provisions of the Life Safety Code would result in unreasonable hardship for the ICF; and

(c) The waiver is granted in accordance with guidelines issued by HCFA.

(d) Any facility of two or more stories that is not of fire resistive construction and is participating on the basis of a waiver of construction type or height, may not house blind, nonambulatory, or physically handicapped patients above the street-level floor unless the facility:

(1) Is one of the following construction types (as defined in the Life Safety Code)—

(i) Type II (1, 1, 1)—protected non-combustible;

(ii) Fully sprinklered Type II (0, 0, 0)—non-combustible;

(iii) Fully sprinklered Type III (2, 1, 1)—protected ordinary;

(iv) Fully sprinklered Type V (1, 1, 1)—protected wood frame; or

(2) Achieves a passing score on the Fire Safety Evaluation System (FSES).

V. Part 482 is amended as follows:

## PART 482—CONDITIONS OF PARTICIPATION

### Subpart C—Basic Hospital Functions

1. The authority citation for Part 482 continues to read as follows:

**Authority:** Secs. 1102, 1814(a)(7), 1861 (e), (f), (k), (r), (v)(1)(G), and (z), 1864, 1871, 1883, 1886, and 1905(a) of the Social Security Act (42 U.S.C. 1302, 1395f(a)(7), 1395x (e), (f), (k), (r), (v)(1)(G), and (z), 1395aa, 1395hh, 1395tt, 1395ww, and 1396d(a)).

2. Section 482.41 is amended by revising paragraph (b)(1) and the footnote to read as follows:

**§ 482.41 Condition of Participation—physical environment.**

* * * * *

(b) *Standard: Life safety from fire.* (1) Except as provided in paragraphs (b)(1)(i) through (b)(1)(iii) of this section, the hospital must meet the applicable provisions of the 1985 edition of the Life Safety Code of the National Fire Protection Association (which is incorporated by reference [1]).

(i) Any hospital that on November 26, 1982, complied, with or without waivers, with the requirements of the 1967 edition of the Life Safety Code, or on (30 days after publication of final rule) complied with the 1981 edition of the Life Safety Code, is considered to be in compliance with this standard so long as the facility continues to remain in compliance with that edition of the Code.

(ii) After consideration of State survey agency findings, HCFA may waive specific provisions of the Life Safety Code which, if rigidly applied, would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of patients.

(iii) The provisions of the Life Safety Code do not apply in a State where HCFA finds that a fire and safety code imposed by State law adequately protects patients in hospitals.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.744, Medicare—Supplementary Medical Insurance Program) (Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

Dated: October 7, 1986.

**William L. Roper,**

*Administrator, Health Care Financing Administration.*

Approved: November 10, 1986.

**Otis R. Bowen,**

*Secretary.*

[FR Doc. 87-1363 Filed 1-21-87; 8:45 am]

BILLING CODE 4120-01-M

[1] See footnote to § 405.1134 of this chapter.

[1] See footnote to § 405.1134 of this chapter.

# Notices

Federal Register
Vol. 52, No. 14
Thursday, January 22, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### Chimacum Creek Watershed, WA; Deauthorization of Federal Funding

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of deauthorization of Federal funding.

**SUMMARY:** Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Chimacum Creek Watershed project, Jefferson County, Washington, effective on December 18, 1986.

**FOR FURTHER INFORMATION CONTACT:** Lynn A. Brown, State Conservationist, Soil Conservation Service, W. 920 Riverside, Spokane, Washington 99201, telephone (509) 456-3710.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: January 13, 1987.

**Lynn A. Brown,**

*State Conservationist.*

[FR Doc. 87-1321 Filed 1-21-87; 8:45 am]

BILLING CODE 3410-16-M

## DEPARTMENT OF COMMERCE

### Bureau of the Census

### Census Advisory Committees of the American Economic Association, American Marketing Association, American Statistical Association, and on Population Statistics; Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Secretary of Commerce has determined that the reestablishment of the Census Advisory Committees of the American Economic Association, American Marketing Association, American Statistical Association and on Population Statistics is in the public interest in connection with the performance of duties imposed on the Department of law.

These committees were originally established in 1965, 1960, 1946, and 1919, respectively. The Department of Commerce last renewed each committee on December 24, 1984.

The committees will continue to provide advice to the Director, Bureau of the Census, on such matters as conceptual problems concerning the economic censuses and surveys; decennial census of population; statistical needs of data users concerned with marketing the Nation's products and services; and numerous other aspects of the Census Bureau's programs.

The Committees of the American Marketing Association, American Economic Association, and on Population Statistics will each have a balanced representation of 9 members. The Committee of the American Statistical Association will have a balanced representation of 12 members. The committees will continue to report and be responsible to the Director, Bureau of the Census, and will function solely as an advisory body in compliance with the Federal Advisory Committee Act.

The Census Bureau will file copies of the committees' revised charters with appropriate committees in Congress.

You may address inquiries or comments to Mrs. Phyllis Van Tassel, Committee Liaison Officer, Bureau of the Census, Room 2428-3, Washington, DC 20233; telephone (301) 763-5410, or Ms. Suzette Kern, Committee Management Analyst, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 377-4217.

Dated: January 16, 1987.

**John G. Keane,**

*Director, Bureau of the Census.*

[FR Doc. 87-1373 Filed 1-21-87; 8:45 am]

BILLING CODE 3510-07-M

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

### Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed White River Entrance Channel Project, McClellan-Kerr Arkansas River Navigation System, AR

**AGENCY:** U.S. Army Corps of Engineers, Department of Defense.

**ACTION:** Notice of intent to prepare a draft Environmental Impact Statement (DEIS).

**SUMMARY:**

**1. Description of Proposed Action**

The proposed study is intended to identify engineeringly, economically, and environmentally feasible solutions to the problem of low water levels at the White River entrance to the navigation system.

**2. Alternatives for the Proposed Action**

A variety of structural solutions were explored during early planning stages. These are as follows:

a. Bank stabilization and contraction structures.

b. Sediment trap in conjunction with contraction structures.

c. Diversion of Arkansas River water.

d. Additional lock and dam in two alternate locations.

e. No-action.

**3. Public Involvement**

The three Corps Districts, Tulsa, Memphis, and Little Rock, using the waterways were involved in preliminary discussions. Coordination with Federal and State agencies, local government and interested individuals will be maintained throughout the study. A

public meeting, if requested, would be held after the distribution of the DEIS.

**4. Significant Issues**

The impacts of a project on the natural environment of the lower White River, particularly bottomland hardwoods, will be discussed at length in the DEIS.

**5. Public Availability of the DEIS**

The DEIS is presently scheduled to be available to the public in the 2d quarter FY 90.

Additional information concerning the proposed project may be requested from: Chris Hicklin, P.E., Corps of Engineers, U.S. Army Engineer District, Little Rock, P.O. Box 867, Little Rock, Arkansas 72203–0867.

**Robert W. Whitehead,**

*Colonel, Corps of Engineers, District Engineer.*

[FR Doc. 87–1318 Filed 1–21–87; 8:45 am]

BILLING CODE 3710–57–M

## DEPARTMENT OF ENERGY

### Availability of Environmental Assessment and Finding of No Significant Impact; Remedial Action at the Inactive Tuba City Uranium Mill Tailings Site, Tuba City, AZ

**AGENCY:** Department of Energy (DOE).

**ACTION:** Notice of availability of environmental assessment (EA) and finding of no significant (FONSI).

**SUMMARY:** The DOE has published an Environmental Assessment of Remedial Action at the Tuba City Uranium Mill Tailings Site, Tuba City, Arizona (DOE/EA–0317), for the proposed remedial action on residual radioactive materials at the inactive Rare Metals uranium mill site near Tuba City, Arizona. On the basis of the analyses in the EA, the DOE has determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq.) and has issued a FONSI. Both the EA and FONSI are available for public review.

*Background*

The uranium mill tailings at the former Rare Metals processing site are six miles east of Tuba City, Coconino County, Arizona. From 1956 to 1966, the mill processed uranium ore for sale to the U.S. Atomic Energy Commission, a predecessor of the DOE. The tailings remaining from these operations now rest in piles averaging 16 feet in depth and covering approximately 25 acres of land.

In 1978, the U.S. Congress passed the Uranium Mill Tailings Radiation Control Act, Pub. L. 95–604. In this Act, the Congress found that uranium mill tailings may pose a potential radiation health hazard. It authorized the DOE to carry out remedial action at each site in cooperation with other Federal agencies and with the States or Indian tribes affected by the action. It gave to the Nuclear Regulatory Commission (NRC) responsibility for consulting with the DOE over a range of subjects concerning conduct of remedial action, for concurring with the selected remedial action and with any cooperative agreement with a State or Indian tribe, and for licensing the maintenance of each tailings disposal site after the remedial action is completed. In addition, the Environmental Protection Agency (EPA) was given the responsibility to set standards to protect public health, safety, and the environment at the disposal sites.

In accordance with Pub. L. 95–604, the DOE designated 24 sites for remedial action. One of these sites is the former Rare Metals processing site near Tuba City, Arizona. The EPA issued standards (40 CFR Part 192) for remedial actions at inactive uranium processing sites on January 5, 1983 (48 FR 590).

*Scope of the EA*

The EA evaluates the no-action alternative and two alternatives for minimizing the potential public health hazards associated with the Tuba City site: (1) Stabilization of the contaminated material on the tailings site; and (2) decontamination of the tailings site and disposal of the material at a site located about 16 road miles southwest of the tailings site. The impacts of these three alternatives are assessed in terms of effects on radiation levels, health effects, air quality, soils and mineral resources, surface water and groundwater resources, ecosystems, land use, sound levels, historical and cultural resources, populations and employment, economic structures, and transportation networks.

*Availability of the EA and FONSI*

Copies of the EA and FONSI have been distributed to Federal, Tribal, and local agencies, organizations, and to individuals known to be interested in the Tuba City remedial action project. Additional copies may be obtained from the Project Manager, Uranium Mill Tailings Remedial Action Project Office, U.S. Department of Energy, 5301 Central Avenue NE., Suite 1700, Albuquerque, New Mexico, 87108. Phone: (505) 844–3941.

Copies of the EA and FONSI are available for public inspection at the following locations:

Tuba City Public Library, P.O. Box 156, Tuba City, AZ 86045

Tuba City Chapter House, P.O. Box 727, Tuba City, AZ 86405

Upper Moencopi Council, Upper Moencopi Village, P.O. Box 1229, Tuba City, AZ 86045

Freedom of Information Reading Room Room, 1E–190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585

Library, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60639

Library Idaho Operations Office, 550 Second Street, Idaho Falls, ID 83401

Library, Nevada Operations Office, 2753 South Highland Drive, Las Vegas, NV 89114

Library, Oak Ridge Operations Office, Federal Building, Oak Ridge, TN 37830

Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, NM 87115

Energy Resource Center, 1333 Broadway, Office, Oakland, CA 94612

Regional Energy/Environmental Center, Denver Public Library, 1357 Broadway, Denver, CO 80210

Library, Richland Operations Office, Federal Building, Richland, WA 99352

Library, Savannah River Operations, Savannah River Plant, Aiken, SC 29801.

*For information on the DOE NEPA process you may contact:*

1. Dr. Carolyn Osborne, Office of NEPA Project Assistance, Office of the Assistant Secretary for Environment, Safety and Health, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC, 20585. Phone: (202) 586–4610
2. Mr. Henry Garson, Esq., Assistant General Counsel for Environment, U.S. Department of Energy, Washington, DC, 20585, Phone: (202) 586–6947.

Issued in Washington, DC, December 18, 1986.

**William R. Voigt,**

*Director, Office of Remedial Action and Waste Technology.*

[FR Doc. 87–1316 Filed 1–21–87; 8:45 am]

BILLING CODE 6450–01–M

## Economic Regulatory Administration

[Docket ERA-C&E-86-50]

### Virginia Electric Power Co.; Public Hearing

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it will convene a public hearing concerning Virginia Electric Power Company's (VEPCO) petition for a permanent lack of alternate fuel exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act). More detailed information on the hearing and on the procedures to be followed by interested parties who wish to participate therein are contained in the **SUPPLEMENTARY INFORMATION** section below.

**DATE:** The hearing will be held at 10:00 a.m., February 18, 1987.

**ADDRESS:** Department of Energy Headquarters, 1000 Independence Avenue SW., Washington, DC, Room 1E245.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Ellen Russell, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-093, Washington, DC 20585, Telephone (202) 586-9624.

**SUPPLEMENTARY INFORMATION:** On September 24, 1986, Virginia Electric Power Company petitioned ERA two for permanent exemptions from the prohibitions of FUA based on the lack of an alternate fuel supply based on cost of using imported petroleum.

VEPCO plans to install two 200 megawatt (MW) combined cycle generating units at its Chesterfield Power Station in Chesterfield County, Virginia. The units will be designated Chesterfield Units 7 and 8. The units are to be completed for operation in 1991 and 1992 respectively.

ERA accepted the petition on November 3, 1986, and published notice of its acceptance in the **Federal Register** on November 12, 1986 (51 FR 40999). Publication of the Notice of Acceptance commenced a 45-day public comment period, during which interested persons were afforded an opportunity to file comments and to request a public hearing on the petition. The comment period ended December 29, 1986. The National Coal Association (NCA) submitted comments and requested a public hearing

The ERA has determined to grant the NCA's request for a public hearing and has appointed Steven E. Ferguson, Esq., Office of General Counsel, as the Presiding Officer in the proceeding.

At the public hearing, ERA will provide interested persons an opportunity to present oral or written data, views and arguments on the petition for exemption. In addition, in accordance with 10 CFR 401.34(f), interested persons will be given an opportunity to question (1) other interested persons who make oral presentations, (2) employees and contractors of the United States who have made written or oral presentations or who have participated in the consideration of the VEPCO petition, and (3) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation.

Persons who wish to participate in the hearing or who wish to be included on the service list, must submit their names to the Presiding Officer, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Office of Fuels Programs, RG-22, Room GA-093, 1000 Independence Avenue SW., Washington, DC 20585 by February 12, 1987. In accordance with the provisions of 10 CFR 501.33 and 501.34 that request shall include (1) a description of that party's interest in the issue or issues involved in the proceeding and (2) an outline of the anticipated content of the presentation, identifying any witnesses that are intended to be called at the hearing, a summary of their anticipated testimony and/or questions to be asked and a list of government personnel which the parties wish to examine.

The Forrestal Building is a secure building, all hearing attendees should prearrange their attendance with Mrs. Russell by 10:00 a.m. February 17, 1987.

Issued in Washington DC, on January 14, 1987.

**Robert L. Davies,**

*Director, Office of Fuels Programs, Economic Regulatory Administration.*

[FR Doc. 87-1314 Filed 1-21-87; 8:45 am]

BILLING CODE 6450-01-M

## Energy Information Administration

### Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulations of most facets of the natural gas industry. In general, under Title II of the NGPA, interestate natural gas pipeline companies are required to pass through certain portions of their acquistion costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ulitimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective February 1, 1987. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue SW., Room BE-034, Washington, DC 20585, Telephone: (202) 586-6077.

#### Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

| State | Dollars per million BTU's |
|---|---|
| Alabama [1] | 2.35 |
| Arizona [1] | 1.80 |
| Arkansas | 1.96 |
| California | 1.79 |
| Colorado [2] | 1.82 |
| Connecticut [1] | 2.18 |
| Delaware [1] | 2.40 |
| Florida | 2.11 |
| Georgia [1] | 2.35 |
| Idaho [2] | 1.82 |
| Illinois | 1.74 |
| Indiana [1] | 1.84 |
| Iowa | 1.90 |

| State | Dollars per million BTU's |
|---|---|
| Kansas [1] | 1.97 |
| Kentucky [1] | 1.84 |
| Louisiana [1] | 2.01 |
| Maine [1] | 2.18 |
| Maryland [1] | 2.40 |
| Massachusetts | 2.08 |
| Michigan [1] | 1.84 |
| Minnesota [1] | 1.97 |
| Mississippi [1] | 2.35 |
| Missouri | 1.66 |
| Montana [2] | 1.82 |
| Nebraska [1] | 1.97 |
| Nevada [1] | 1.80 |
| New Hampshire | 2.12 |
| New Jersey | 2.33 |
| New Mexico [1] | 2.01 |
| New York | 2.38 |
| North Carolina [1] | 2.35 |
| North Dakota [1] | 1.97 |
| Ohio | 1.65 |
| Oklahoma [1] | 2.01 |
| Oregon [1] | 1.80 |
| Pennsyvania [1] | 2.40 |
| Rhode Island [1] | 2.18 |
| South Carolina [1] | 2.35 |
| South Dakota [1] | 1.97 |
| Tennessee | 2.24 |
| Texas [1] | 2.01 |
| Utah [2] | 1.82 |
| Vermont [1] | 2.18 |
| Virginia | 2.30 |
| Washington [1] | 1.80 |
| West Virginia | 1.83 |
| Wisconsin [1] | 1.84 |
| Wyoming [2] | 1.82 |

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM-79-21.

[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

**Section II. Incremental Pricing Threshold for High Cost Natural Gas**

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during November 1986 was $17.57 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold becomes effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending January 15, 1987, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of November 1986. This lag adjustment factor was applied to the November price yielding $20.78 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective February 1, 1987, is $4.66 per million BTU's.

**Section III. Method Used To Compute Price Ceilings**

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

*A. Data Collected*

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of September 1986, October 1986, and November 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

*B. Method Used To Determine Alternative Price Ceilings*

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective February 1, 1987, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, September 1986, October 1986, and November 1986. Reported prices for sales is September 1986 were adjusted by the percent change in the nationwide volume-weighted average price from September 1986 to November 1986. Prices for October 1986 were similarly adjusted by the percent change in the nationwide volume-weighted average price from October 1986 to November 1986. The volume-weighted 3-month average of the adjusted September 1986 and October 1986, and the reported November 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities fo 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

ceiling for the State (experessed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of September 1986, October 1986, and November 1986. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending January 15, 1987, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of November 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: One for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

*Listing of States by Region.* States were grouped by the FERC to form eight distinct regions as follows:

| *Region A* | *Region B* |
|---|---|
| Connecticut | Delaware |
| Maine | Maryland |
| Massachusetts | New Jersey |
| New Hampshire | New York |
| Rhode Island | |
| Pennsylvania | |
| Vermont | |

| *Region C* | *Region D* |
|---|---|
| Alabama | Illinois |
| Florida | Indiana |
| Georgia | Kentucky |
| Mississippi | Michigan |
| North Carolina | Ohio |
| South Carolina | West Virginia |
| Tennessee | Wisconsin |
| Virginia | |

| *Region E* | *Region F* |
|---|---|
| Iowa | Arkansas |
| Kansas | Louisiana |
| Missouri | New Mexico |
| Minnesota | Oklahoma |
| Nebraska | Texas |
| North Dakota | |
| South Dakota | |

| *Region G* | *Region H* |
|---|---|
| Colorado | Arizona |
| Idaho | California |
| Montana | Nevada |
| Utah | Oregon |
| Wyoming | Washington |

Issued in Washington, DC., January 20, 1987.

**L.A. Pettis,**

*Deputy Administrator, Energy Information Administration.*

[FR Doc. 87-1573 Filed 1-21-87; 8:45 am]

BILLING CODE 6450-01-M

## Federal Energy Regulatory Commission

**[Docket No. EL87-9]**

## Electric Consumers Protection Act, Section 8(d) Study; Intent To Prepare an Environmental Study and Conduct a Scoping Session

January 16, 1987.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) will conduct the study required by section 8(d) of the Electric Consumers Protection Act (ECPA) to evaluate whether the benefits of section 210 of the Public Utility Regulatory Policies Act of 1978 and section 210 of the Federal Power Act should be applied to hydroelectric power facilities utilizing new dams or diversions (within the meaning of section 210(k) of Public Utility Regulatory Policies Act of 1978). The study will be consistent with the outline in section 8(d)(2) of ECPA.

Section 8(d)(2) states, "The study under this subsection shall take into consideration the need for such new dams or diversions for power purposes, the environmental impacts of such new dams and diversions (both with and without the application of the amendments made by this Act to sections 4, 10, and 30 of the Federal Power Act and section 210 of the Public Utility Regulatory Policies Act of (1979), the environmental effects of such facilities alone and in combination with other existing or proposed dams or diversions on the same waterway, the intent of Congress to encourage and give priority to the application of section 210 of Public Utility Regulatory Policies Act of 1978 to existing dams and diversions rather than such new dams or diversions, and the impact of such section 210 on the rates paid by electric power consumers."

Interested persons and agencies are invited to provide comments and recommendations, including any supporting data, on the scope of the planned study any time during the scoping process. Comments will be accepted up to April 15, 1987, or 30 days after the last scoping sessions.

To help commenters, a scoping document will be prepared and distributed to the interested parties by February 15, 1987. The time and location of the scoping sessions will be announced in a subsequent public notice. The study scoping process will entail an evaluation by the staff of all the issues of primary concern, based on the comments received and the staff's independent analysis.

All interested parties should request that their names be added to the mailing list for Docket No. EL87-9. Address the request to Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Questions concerning the Section 8(d) study may be directed to Mr. S. Ronald McKitrick at (202) 376-9065 or Ms. Patricia E. Aspland at (202) 376-9623.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 87-1349 Filed 1-21-87; 8:45 am]

BILLING CODE 6717-01-M

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP-180714; FRL-3144-8]**

## Minnesota Department of Agriculture; Receipt of Application for Emergency Exemption To Use Assert™; Solicitation of Public Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUBJECT:** EPA has received a request for an emergency exemption from the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use the active ingredients 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl) methyl ester and 2-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester to control wild mustard on 125,000 acres of sunflowers in Minnesota. Assert contains unregistered active ingredients and, therefore, in accordance with 40

CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant the exemption.

**DATE:** Comments must be received on or before February 6, 1987.

**ADDRESS:** Three copies of written comments, bearing the identification notation "OPP–180714" should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to:

Rm. 236, Crystal Mall #2, 1921, Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

**FOR FURTHER INFORMATION:** By mail:

Libby Pemberton, Registration Division TS–767C), Environmental Protection Agency, 401, M St., SW., Washington, DC 20460.

Office location and telephone number:

Rm. 716, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1806).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of an unregistered herbicide, a mixture of 6-(4-isopropy-4-methyl-5-oxo-2-imidazolin-2-yl) methly ester (CAS 69969-22-8) and 2-(4-isopropyl-4-methly-5-oxo-2-imidazoline-2-yl) methly ester (CAS 69969-62-6), manufactured as Assert, by American Cyanamid Company, on sunflowers in Minnesota. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant indicates that 200,000 acres of sunflowers will be grown throughout Minnesota in 1987. There are 125,000 acres economically infested with wild mustard) *Sinapis arvensis* L.) which the Applicant is proposing to treat. The Applicant states that most herbicides currently registered for use in sunflowers control annual grasses and some broadleaved weeds but provide little or no wild mustard control. According to the Applicant, chloramben is registered for wild mustard contol in sunflowers, but gives inconsistent control. The Applicant states that wild mustard, when uncontrolled, competes vigorously with sunflowers.

The Applicant indicates that without adequate control wild mustard will cause a 20% potential yield loss over 125,000 acres in 1987. This would amount to approximately $2.81 million.

Assert will be applied postemergence by ground or air at a rate of 3 to 4 ounces active ingredient per acre. A single application will be made sometime between May 15 and July 31, 1987 to approximately 125,000 acres of sunflowers.

This notice does not constitute a decision by EPA on the application itself. The regulation governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registerd pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before February 6, 1987, and should bear the identifying notation "OPP–180714." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the Minnesota Department of the Agriculture.

Dated: January 14, 1987.

**Edwin F. Tinsworth,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 87–1359 Filed 1–21–87; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180715; FRL–3144–9]

## North Dakota Department of Agriculture; Receipt of Application for Emergency Exemption To Use Assert™; Solicitation of Public Comment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUBJECT:** EPA has received a request for an emergency exemption from the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use the active ingredients 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl) methy ester and 2-(4-isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester to control wild mustard on 300,000 acres of sunflowers in North Dakota. Assert contains unregistered active ingredients and, therefore, in accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant the exemption.

**DATE:** Comments must be received on or before February 6, 1987.

**ADDRESS:** Three copies of written comments, bearing the identifying notation "OPP–180715," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

**FOR FURTHER INFORMATION:** By mail: Libby Pemberton, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 716, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–1806).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue a specific exemption to permit the use of an unregistered herbicide, a mixture of 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl) methyl ester (CAS 69969–22–8) and 2–(4–isopropyl-4-methyl-5-oxo-2-imidazoline-2-yl) methyl ester (CAS 69969–62–6), manufactured as Assert, by American Cyanamid Company, on sunflowers in North Dakota. Information in accordance with 40 CFR Part 166 was submitted as part of this request.

The Applicant indicates that approximately 1.9 million acres of sunflowers are grown throughout North Dakota. There are 500,000 acres economically infested with wild mustard (*Sinapis arvensis* L.) and the Applicant is proposing to treat 300,000 acres throughout the State. The Applicant states that most herbicides currently registered for use in sunflowers control annual grasses and some broadleaved weeds but provide little or no wild mustard control. According to the Applicant, chloramben is registered for wild mustard control in sunflowers, but gives inconsistent control. The Applicant states that, wild mustard, when uncontrolled, competes vigorously and moderate to heavy infestations can cause severe yield losses.

According to the Applicant, wild mustard infestations apparently increase each time sunflowers are planted and wild mustard is not controlled. The infestations eventually become so severe that the yield loss due to wild mustard competition is so great that the field is diverted to another crop.

The Applicant indicates that without adequate control of wild mustard North Dakota sunflower growers could loose $6.48 million. In addition, further reductions in production could lead to the permanent closing of two sunflower processing plants in North Dakota, which in turn would lead to further adverse socio-economic impacts.

Assert will be applied postemergence by ground or air at a rate of 3 to 4 ounces active ingredient per acre. A single application will be made sometime between May 15 and July 31, 1987 to approximately 300,000 acres of sunflowers.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require publication of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before February 6, 1987, and should bear the identifying notation "OPP–180715." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemption requested by the North Dakota Department of Agriculture.

Dated: January 14, 1987.

**Edwin F. Tinsworth,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 87–1360 Filed 1–21–87; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL HOME LOAN BANK BOARD

**[No. AC–550]**

### Citizens Saving Bank, F.S.B. Ithaca, NY; Final Action Approval of Conversion Application

January 14, 1987.

Notice is hereby given that on November 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Citizens Savings Bank, F.S.B. Ithaca, New York for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.

**Jeff Sconyers,**

*Secretary.*

[FR Doc. 87–1309 Filed 1–21–87; 8:45 am]

BILLING CODE 6720–01–M

**[No. AC–549]**

### First Federal Savings and Loan Association of Torrington, Torrington, CT; Final Action Approval of Conversion Application

January 14, 1987.

Notice is hereby given that on December 29, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Torrington, Torrington, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, Post Office Box 9106, Boston, Massachusetts 02205.

By the Federal Home Loan Bank Board.

**Jeff Sconyers,**

*Secretary.*

[FR Doc. 87–1305 Filed 1–21–87; 8:45 am]

BILLING CODE 6720–01–M

**[No. AC–547]**

### Fulton Federal Savings and Loan Association, Atlanta, GA; Final Action Approval of Conversion Application

January 14, 1987.

Notice is hereby given that on October 22, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Fulton Federal Savings and Loan Association, Atlanta, Georgia for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Atlanta, P.O. Box 105565, Atlanta, Georgia 30348.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
*Secretary.*
[FR Doc. 87-1306 Filed 1-21-87; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-548]

### Homestead Savings Association, Middletown, PA; Final Action Approval of Conversion Application

January 14, 1987.

Notice is hereby given that on November 13, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Homestead Savings Association, Middletown, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Pittsburgh, One Riverfront Center, Twenty Stanwix Street, Pittsburgh, Pennsylvania 15222-4893.

By the Federal Home Loan Bank Board.
Jeff Sconyers
*Secretary.*
[FR Doc. 87-1308 Filed 1-21-87; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-551]

### Indiana Federal Savings and Loan Association, Valparaiso, IN; Final Action Approval of Conversion Application

January 14, 1987.

Notice is hereby given that on December 18, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Indiana Federal Savings and Loan Association, Valparaiso, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, P.O. Box 60, Indianapolis, Indiana 46206-0060.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
*Secretary.*
[FR Doc. 87-1307 Filed 1-21-87; 8:45 am]
BILLING CODE 6720-01-M

## FEDERAL MARITIME COMMISSION

### Service Contract Provisions; Most Favored Shipper and Liquidated Damages Clauses; Notice of Filing of Petition for Rulemaking

Notice is given that a petition has been filed by the International Council of Containership Operators requesting the prompt promulgation of a rule or rules prospectively prohibiting: (1) The use of so-called "most favored shipper" clauses in service contracts subject to the Shipping Act of 1984, and (2) the inclusion of *de minimus* liquidated damages provisions in service contracts.

Pursuant to Rule 51 (46 CFR 502.51), and in accordance with standard Commission procedure, interested persons are invited to submit replies to the petition in order for the Commission to make a thorough evaluation of this matter. While the Commission previously has invited comment on the need for rulemaking in these areas in Docket 86-6-*Service Contracts* (51 FR 5734; February 18, 1986), additional opportunity to comment is appropriate because the earlier request was raised only as a side issue in that proceeding and may not have evoked the quality and quantity of comment that might be expected in response to the instant petition. We therefore believe that the administrative process is better served by soliciting further comment on the petition. Persons who have previously commented on these issues in Docket 86-6, and who do not wish to enlarge on those comments, may reply by simply incorporating their previous comments by reference.

Replies to the petition may be filed on or before February 12, 1987. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573-0001 in an original and fifteen copies. Replies shall also be served on Emanuel L. Rouvelas, 1735 New York Avenue, NW., Suite 500, Washington, DC 20006-4759, counsel for petitioner.

Copies of the petition are available at the Office of the Secretary, Room 11101, 1100 L Street, NW., Washington, DC. By the Commission January 15, 1987.

Tony P. Kominoth,
*Assistant Secretary.*
[FR Doc. 87-1284 Filed 1-21-87; 8:45 am]
BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Chase Manhattan Corp.; Proposal To Underwrite and Deal in Commercial Paper to a Limited Extent

Chase Manhattan Corporation ("Applicant"), New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, 12 U.S.C. 1841 *et seq.* ("BHC Act"), has applied pursuant to section 4(c)(8) of the BHC Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of the Board's Regulation Y (12 CFR 225.21(a)) for permission to engage through Chase Commercial Corportation ("Company"), Englewood, New Jersey in the activities of underwriting and dealing to a limited extent in commercial paper that is exempt from the registration requirements of the Securities Act of 1933 under section 3(a)(3) thereof, 15 U.S.C. 77c(a)(3). Company would act for issuers as an underwriter of commercial paper, purchasing commercial paper for resale generally to institutional investors such as banks, insurance companies, mutal funds, and nonfinancial businesses. Company would also purchase commercial paper, typically that which Company itself had previously underwritten, for resale in the secondary market as a dealer. In addition, Company may advise issuers as to rates and maturities of proposed issues that are likely to be accepted in the market.

Company is an indirect subsidiary of Applicant's subsidiary, Chase Commercial Corporation Holdings, Inc. Applicant has previously obtained Board approval, pursuant to section 4(c)(8) of the BHC Act, to engage, directly or through one or more wholly-owned subsidiaries including Company, in commercial financing activities, including asset-based financing as well as equipment and other personal property leasing. In addition to the foregoing financing activities, Company serves in an advisory capacity on a fee basis to customers regarding finance and leasing.

The activities would be conducted on a nationwide basis from offices of Company to be established in New York, New York. Company may establish offices at other locations in the future.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or

controlling banks as to be a proper incident thereto." [1] The Board has not previously approved underwriting and dealing in commercial paper for bank holding companies.

Applicant states that the activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis of its belief that banks engage in activities that it believes are functionally and operationally similar to those in the application, such as discounting commercial paper to provide liquidity to its issuers; making short-term loans; issuing their own obligations; underwriting and dealing in money market instruments; assisting commercial paper issuers in the placement of their notes; and assessing credit and interest rate risk.

In determining whether a particular activity is a proper incident to banking, the Board also must consider whether the performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices. Applicant maintains that permitting bank holding companies to engage *de novo* in the proposed activities would be procompetitive and would result in increased convenience, lower financing costs to issuers, greater efficiency and more liquid secondary markets. In addition, Applicant believes the proposal would not result in adverse effects under the legal framework in which the activity would be conducted and in view of other precautionary measures to be taken.

The application also presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Chase Manhattan Bank, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Recently, the Board, by Order dated December 24, 1986, approved an application submitted by Bankers Trust New York Corporation to engage in commercial paper placement through a subsidiary to a limited extent, subject to certain restrictions limiting the amount of the foregoing activity relative to the total business conducted by the subsidiary and relative to the total market in such activity.

Applicant has proposed those same restrictions. In accordance wtih the limitations approved by the Board in *Bankers Trust,* Company will limit its involvement in underwriting and dealing in commercial paper so that Company's gross revenue from such activities will not exced 5 percent of Company's total gross revenue duing any two-calendar-year period. Company will also limit its invovlement in the proposed activities so that the amount of commercial paper outstanding at any time underwritten by Company will not exceed 5 percent of the average amount of dealer-placed commercial paper outstanding during the prior four calendar quarters, and the amount of commercial paper held in inventory by Company on any day will not exceed 5 percent of the average amount of dealer-placed commercial paper outstanding during the prior four calendar quarters.

Any request for a hearing on this application must comply with § 262.3(e) of the Boad's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments to requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than February 17, 1987.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1295 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

[1] Guidelines for determining whether an activity is closely related to banking are set out in *National Courier Association v. Board of Governors of the Federal Reserve System,* 516 F.2d 1229 (D.C. Cir. 1975), which provides that an activity may be so regarded if: (1) Banks have generally provided the proposed services; (2) banks generally provide services that are so similar to the proposed services as to equip them particularly well to provide the proposed services; or (3) banks generally provide services that are so integrally related to the proposed services as to require their provision in a specialized form. In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement regarding Regulation Y, 49 FR 813 (1984).

## Huntington Bancshares, Inc. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under setion 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regardng the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 6, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Huntington Bancshares Incorporated,* Columbus Ohio; to engage *de novo* through its subsidiary, Scioto Life Insurance Company, Columbus, Ohio, in underwriting an reinsuring credit life and accident and health insurance issued with loans made by its subsidiaries and affiliates which are secured by first mortgages on residential dwellings pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

2. *Trustcorp, Inc.,* Toledo, Ohio; to engage *de novo* through its subsidiary, The Toledo Trust Company, Toledo, Ohio, in tax planning and preparation activities and services pursuant to § 225.25(b)(21) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Canadian Imperial Bank of Commerce,* Toronto, Ontario, Canada, and Canadian Imperial Holdings Inc., Wilmington, Delaware; to engage through their subsidiary, CIBC Financing Services, Inc., Atlanta, Georgia, in activities conducted by a commercial finance company pursuant to § 225.25(b)(1) of the Board's Regulation Y. Comments on this application must be received by February 9, 1987.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1302 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Corrections; James D. Yoo et al.

This notice corrects three previous **Federal Register** documents.

1. In (FR Doc. 87-505), published at page 1243 of the issue for Monday, January 12, 1987.

Under the Federal Reserve Bank of Dallas, the entry for James D. Yoo is corrected to read as follows:

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *James D. Yoo,* Dallas, Texas; Cheol H. Nam, Carrollton, Texas; Don S. Kim, Arlington, Texas; Young K. Moon, Carrollton, Texas; Samuel S. K. Hong, Garland, Texas; Hee D. Lee, Mesquite, Texas; Jeffrey S. Gibbens, Plano, Texas; Thomas L. Fiedler, Richardson, Texas; Chung Hui Cho, Dallas, Texas; James P. Lee, Dallas, Texas; Gerald J. LaFountain, Dallas, Texas; American Religious Town Hall Meeting, Inc., Dallas, Texas; Robert W. Leiske, Dallas, Texas; Jerry B. Cotner, Dallas, Texas; and S. Lewis Hutcheson, Dallas, Texas; to acquire 100 percent of the voting shares of Southwest Bank—Garland, Garland, Texas.

Comments on this application must be received by January 27, 1987.

2. FR Doc. 87-618, published at page 1383 of the issue for Tuesday, January 13, 1987.

Under the Federal Reserve Bank of Chicago, the entry for First Bancorp, Inc. is corrected to read as follows:

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Bancorp, Inc.,* Yates City, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Yates City, Yates City, Illinois.

Comments on this application must be received by January 30, 1987.

3. FR Doc. 87-618, published at page 1383 of the issue for Tuesday, January 13, 1987.

Under the Federal Reserve Bank of New York, the entry for The Bank of Tokyo Ltd. is corrected to read as follows:

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of Tokyo Ltd.,* Tokyo, Japan; to retain ownership of Nissei Bot Asset Management Corporation, New York, New York, and thereby engage in (i) providing portfolio investment advice to domestic and foreign persons pursuant to § 225.25(b)(4)(iii); (ii) serving as investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(a)(20), to investment companies registered under the Act pursuant to § 225.25(b)(4)(ii); and (iii) providing investment advice on financial futures and options on futures as a commodity trading advisor pursuant to § 225.25(b)(19) of the Board's Regulation Y. These activities will be conducted on a worldwide basis.

Comments on this application must be received by January 27, 1987.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1294 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Lane Financial, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 9, 1987.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lane Financial, Inc.,* Northbrook, Illinois; to engage *de novo* through its subsidiary, Lane Life Insurance Company, Northbrook, Illinois, as reinsurer of credit life insurance and credit disability insurance that is directly related to extensions of credit by its banking subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Dai-Ichi Kangyo Bank, Limited,* Tokyo, Japan; to engage *de novo* through its subsidiary, Dai-Ichi Kangyo Trust Company of New York, New York, New York, in investment and financial advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1303 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Alex Brown Financial Group; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C.

1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 9, 1987.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Alex Brown Financial Group;* Sacramento, California; to acquire River City Money Management, Sacramento, California, and through a joint venture with RCB Corporation, engage in investment and financial advising pursuant to § 225.25(b)(4) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1296 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Change in Bank Control; Acquisitions of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 5, 1987.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *A. Andrew Boemi,* and Andrew A. Boemi, both of Chicago, Illinois; to acquire 14.14 percent of the voting shares of Madison Financial Corporation, Chicago, Illinois, and thereby indirectly acquire Madison Bank & Trust Company, Chicago, Illinois, First National Bank of Wheeling Wheeling, Illinois, and Madison National Bank, Niles, Illinois.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *James E. Cowan,* and Joan Y. Cowan, Seeley Lake, Montana; to acqire 50 percent of the voting shares of First Valley Bank, Seeley Lake, Montana.

C. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *John Parker,* Taylor, Texas; to acquire 14 percent of the voting shares of First of Austin Bancshares, Inc., Austin, Texas.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1297 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Constitution Bancorp of New England, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Co.; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12. U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assests of a company engaged in a nonbanking activity is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 10, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Constitution Bancorp of New England, Inc.,* Fairfield, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Lafayette Bancorp, Inc., Bridgeport, Connecticut, and thereby indirectly acquire Lafayette Bank and Trust Company, Inc., Bridgeport, Connecticut, and American Bancorp, Inc., Hamden, Connecticut, and thereby indirectly acquire American National Bank, Hamden, Connecticut.

In connection with this application, Applicant also proposes to acquire DCG Acquisition, Inc., Hamden, Connecticut, and Data Control Group, Inc., New Haven, Connecticut, and thereby engage in data processing activities pursuant to

§ 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1298 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## F&M National Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 5, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *F&M National Corporation,* Winchester, Virginia; to acquire 100 percent of the voting shares of the Middleburg National Bank, Middleburg, Virginia. Comments on this application must be received by February 9, 1987.

B. **Federal Reserve Bank of Atlanta** (Robet E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First American Corporation,* Nashville, Tennessee; to merge with FPB Corporation, Gallatin, Tennessee, and thereby indirectly acquire First & Peoples National Bank of Gallatin, Gallatin, Tennesses, and First & Peoples Trust Company, Gallatin, Tennessee.

C. *Federal Reserve Bank of St. Louis* (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. **BMC Bancshares, Inc.,** Mt. Carmel, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Mt. Carmel, Mt. Carmel, Illinios.

2. *State National Bancorp of Frankfort, Inc.,* Frankfort, Kentucky; to acquire 100 percent of the voting shares of The Garrard Bank & Trust Company, Lancaster, Kentucky.

3. *The Wedge Holding Company,* Alton, Illinois; to acquire at least 86.22 percent of the voting shares of Bethalto National Bank, Bethalto, Illinois; and 100 percent of the voting shares of Brighton Bancshares, Inc., Brighton, Illinois, and thereby indirectly acquire First National Bank of Brighton, Brighton, Illinois.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Heights Bancshares, Inc.,* Harker Heights, Texas; to merge with Capital Peoples Bancshares, Inc., Lampasas, Texas, and thereby indirectly acquire United Peoples Bank, Lampasas, Texas.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1299 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## PKBanken et al., Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 9, 1987.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *PKBanken,* Stockholm, Sweden; to acquire The English Association, Incorporated, New York, New York, and thereby engage in investment or financial advice, securities brokerage and tax planning and preparation pursuant to § 225.25(b)(4), (15), and (21). Comments on this application must be received by February 6, 1987.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mercantile Bancshares, Inc.,* Jonesboro, Arkansas; to acquire Mercantile Corporation, Jonesboro, Arkansas, and there by engage in data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in Montgomery, Alabama.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1300 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Trustcorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 10, 1987.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Trustcorp, Inc.*, Toledo, Ohio; to acquire through its subsidiary, Trustcorp of Michigan, Inc., Toledo, Ohio, 100 percent of the voting shares of Commercial Bankshares Corp., Adrian, Michigan, and thereby indirectly acquire Commercial Savings Bank, Adrian, Michigan, and The Jipson-Carter State Bank, Blissfield, Michigan. In connection with this application, Trustcorp of Michigan, Inc., Toledo, Ohio, has applied to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Bankshares, Inc.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Volunteer Bancorp, Inc.*, Sneedville, Tennessee; to become a bank holding company by acquiring 95 percent of the voting shares of Citizens Bank of Sneedville, Sneedville, Tennessee. Comments on this application must be received by February 9, 1987.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

*Continental Illinois Bancorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Continental Bank of Buffalo Grove, N.A., Buffalo Grove, Illinois.

2. *Continental Illinois Bancorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Continental Illinois Bank of Deerfield, N.A., Deerfield, Illinois.

3. *Continental Illinois Bancorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Continental Bank of Oak Brook Terrace, Oak Brook Terrace, Illinois.

4. *Continental Illinois Bancorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of Continental Illinois Bank of Western Springs, N.A., Western Springs, Illinois.

5. *Du Page County Bancorp, Inc.*, Glendale Heights, Illinois; to become a bank holding company by acquiring 88.23 percent of the voting shares of M.G. Bancorporation, Inc., Chicago, Illinois, and thereby indirectly acquire Mount Greenwood Bank, Chiicago, Illinois; 65.93 percent of the voting shares of Worth Bancorp, Inc., Worth, Illinois, and thereby indirectly acquire Worth Bank and Trust, Worth, Illinois; and 98.28 percent of the voting shares of Illini Bancorp, Inc., Danville, Illinois, and thereby indirectly acquire The First National Bank of Danville, Danville, Illinois. Comments on this application must be received by February 6, 1987.

6. *Rog-Lee Incorporated*, Manson, Iowa; to becomne a bank holding company by acquiring 81.40 percent of the voting shares of Manson State Bank, Manson, Iowa.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Lubbock Bancshares, Inc.*, Lubbock, Texas; to acquire 21.19 percent of the voting shares of First Borger Bancshares, Inc., Lubbock, Texas, and thereby indirectly acquire First National Bank of Borger, Borger, Texas; Denver City Bancshares, Inc., Denver City, Texas, and thereby indirectly acquire Yoakum County State Bank, Denver City, Texas; Lubbock Bancorporation, Inc., Lubbock, Texas, and thereby indirectly acquire Bank of the West, Lubbock, Texas; Plainview First National Bancshares, Inc., Plainview, Texas, and thereby indirectly acquire First National Bank of Plainview, Plainview, Texas; and to acquire 100 percent of the voting shares of West Texas Bancorporation, Inc., Post, Texas, and thereby indirectly acquire First National Bank of Post, Post, Texas.

2. *Part Cities Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Park Cities, Dallas, Texas.

Board of Governors of the Federal Reserve System, January 15, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1301 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## Greensberg Deposit Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comments on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than February 11, 1987.

A. **Federal Reserve Bank of St. Louis**, (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis Missouri 63166:

1. *Greensberg Deposit Bancorp, Inc.*, Greensberg, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Greensberg Deposit Bank, Greensberg, Kentucky.

2. *State National Bancorp of Frankfort, Inc.*, Frankfort, Kentucky; to acquire 100 percent of the voting shares of The Garrard Bank & Trust Company, Lancaster, Kentucky. Comments on this application must be received by February 5, 1987.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Coleman Bancshares, Inc.*, Coleman, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Coleman National Bank of Coleman, Coleman, Texas.

Board of Governors of the Federal Reserve System, January 16, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87-1385 Filed 1-21-87; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Resources and Services Administration

### Public Health Service; Privacy Act of 1974; Annual Publication of Systems of Records; Correction

**AGENCY:** Department of Health and Human Services; Public Health Service; Health Resources and Services Administration (HRSA).

**ACTION:** Correction.

**SUMMARY:** On November 24, 1986, HRSA updated and republished its inventory of Privacy Act systems of records notices. One routine use was inadvertently omitted from system notices 09–15–0044 Health Education Assistant Loan (HEAL) Program Loan Control Master File, HHS/HRSA/BHPr, and 09–15–0045 Health Resources and Services Administration Loan Repayment/Debt Management Records Systems, HHS/HRSA/OA.

The omitted routine use, which should be added as the last routine use to each of the above systems, reads as follows: HRSA may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other necessary information to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that the IRS can offset against the debt any income tax refunds which may be due to the debtor.

The omitted routine use was added to each of the above systems on July 17, 1986 (51 FR 25946).

Dated: January 14, 1987.

**James A. Walsh,**

*Associate Administrator for Operations and Management.*

[FR Doc. 87–1293 Filed 1–21–87; 8:45 am]

BILLING CODE 4160–15–M

### Office of Human Development Services

### President's Committee on Mental Retardation; Meeting

Agency holding the meeting: President's Committee on Mental Retardation.

Time and date: Executive Committee, Sunday February 8, 1987, 1:00–p.m.–5:00 p.m., Full Committee, February 9–10, 1987, 9:00 a.m.–5:00 p.m., February 9, 9:00 a.m.–5:00 p.m., February 10.

Place: Omni Shoreham Hotel, 2500 Calvert Street NW., Washington, DC 20008.

Status: Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

Matters to be considered: Reports by members of the Executive Committee of the President's Committee on Mental Retardation (PCMR) will be given. The Committee plans to discuss critical issues concerning prevention, family and community services, full citizenship, public awareness and other issues relevant to the PCMR's goals.

The PCMR: (1) Acts in an advisory capacity to the President and the Secretary of the Department of Health and Human Services on matters relating to programs and services for persons who are mentally retarded; and (2) is responsible for evaluating the adequacy of current practices in programs for the retarded, and reviewing legislative proposals that affect the mentally retarded.

Contact person for more information: Susan Gleeson, R.N., M.S.N., 330 Independence Avenue SW., Room 4725–North, Washington, DC. 20201, (202) 245–7635.

Dated: January 14, 1987.

**Susan Gleeson,**

*Executive Director, PCMR.*

[FR Doc. 87–1337 Filed 1–21–87; 8:45 am]

BILLING CODE 4130–01–M

### Public Health Service

### National Committee on Vital and Health Statistics Subcommittee on Uniform Minimum Health Data Sets; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Uniform Minimum Health Data Sets established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, February 4, 1987 from 9:00 a.m. to 12:00 noon in Room 423A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The Subcommittee will examine the merits of recommending including or excluding individual items in the proposed long term care minimum health data set and the structure and content of the material to be sent out for public comment.

Further information regarding the Subcommittee may be obtained by contacting Henry S. Mount, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: January 9, 1987.

**Manning Feinleib,**

*Director, National Center for Health Statistics.*

[FR Doc. 87–1331 Filed 1–21–87; 8:45 am]

BILLING CODE 4160–17–M

### National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, February 4, 1987 from 1:00 p.m. to 5:00 p.m. and Thursday and Friday, February 5 and 6, 1987 from 9:00 a.m. to 5:00 p.m. in Room 529A of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

The Committee will hear reports on national health data needs and statistical systems capabilities. The Committee will also receive reports from each of its Subcommittees and may address new business as appropriate.

Further information regarding this meeting of the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: January 9, 1987.

**Manning Feinleib,**

*Director, National Center for Health Statistics.*

[FR Doc. 87–1332 Filed 1–21–87; 8:45 am]

BILLING CODE 4160–17–M

## DEPARTMENT OF THE INTERIOR

### National Strategic Materials and Minerals Program Advisory Committee; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that the National Strategic Materials and Minerals Program Advisory Committee (NSMMPAC) will meet on Wednesday, February 4, 1987 from 8:30 a.m. until 12:00 noon, or until business is concluded. The meeting will convene in Room 5160, Main Interior Building, 18th & C Streets, NW., Washington, DC.

It will be open to the public.

The proposed agenda is:

8:30–9:00—Chairman's introductory remarks; introduction of new members

9:00–10:00—Reports from working groups

10:00–11:30—Discussion of support for National Critical Materials Council

11:30–Conclusion—New business

Statements are invited from groups and members of the general public who have an interest in mining, minerals or materials issues. To ensure that time will be available to hear such statements, prospective witnesses are requested to notify the Committee contact (see below) of their intention to appear. Written statements for the record should be submitted prior to February 21, 1987.

**FOR FURTHER INFORMATION CONTACT:** Gully Walter, Department of the Interior, Washington, DC, Room 6650 (202) 343–2136.

Gully Walter,

*Executive Director.*

[FR Doc. 87–1346 Filed 1–21–87; 8:45 am]

BILLING CODE 4310–10–M

## Bureau of Land Management

[ID–943–07–4520–12]

### Idaho; Filing Plats of Survey

The plats of survey of the following lands were officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, on the dates hereinafter stated:

**Boise Meridian**

T. 7 N., R. 5 W., accepted October 7, 1986, officially filed October 23, 1986.

T. 2 S., R. 35 E., accepted October 28, 1986, officially filed January 5, 1987.

The above plats represent surveys, dependent resurveys, and subdivisions.

Inquiries about these lands should be addressed to Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: January 9, 1987.

**Sharron L. Deroin,**

*Chief, Land Services Section.*

[FR Doc. 87–1325 Filed 1–21–87; 8:45 am]

BILLING CODE 4310–GG–M

[MT–920–07–4111–13; MTM 41392]

### Montana; Proposed Reinstatement of Terminated Oil and Gas Lease; Powder River County

Under the provisions of Pub. L. 97–451, a petition for reinstatesment of oil and gas lease MTM–41392, Powder River County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The leasee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔% respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: January 12, 1987.

**Karen L. Skauge,**

*Chief, Leasing Unit.*

[FR Doc. 87–1324 Filed 1–21–87; 8:45 am]

BILLING CODE 4310–DN–M

## Minerals Management Service

### Outer Continental Shelf (OCS) Advisory Board Scientific Committee; Notice and Agenda of Plenary Session Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The OCS Advisory Board Scientific Committee will meet in plenary session at the Holiday Inn Bay Beach, 51 Gulf Breeze Parkway, Gulf Breeze, Florida 32561 (telephone 904–932–2214), from 9 a.m. to 5 p.m. on February 12, 1987 and from 8 a.m. to 12 noon on February 13, 1987.

The agenda for the meeting will include the following subjects:

- Update on the Environmental Studies Program for the Regional and Headquarters Offices;
- Fiscal Year 1988 Draft Regional Studies Plans;
- Update on the National Academy of Science Review of the Environmental Studies Program;
- The Long-term Studies Plan for the Environmental Studies Program;
- Discussion with Representatives of Gulf of Mexico Coastal States;
- Report on the Environmental Studies Program Socioeconomic Program; and
- Discussion of the Fisheries Program.

This meeting is open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis. All inquiries concerning this meeting should be addressed to: Dr. Don V. Aurand, Chief, Branch of Environmental Studies, Offshore Environmental Assessment Division, Room 4230, (MS 644), Minerals Management Service, U.S. Department of the Interior, 18th and C Streets NW., Washington, DC 20240; telephone (202) 343–7744.

Dated: January 12, 1987.

**Carolita Kallaw,**

*Associate Director for Offshore Minerals Management.*

[FR Doc. 87–1287 Filed 1–21–87; 8:45 am]

BILLING CODE 4310–MR–M

### Pelto Oil Co., Development Operations Coordination Document

**AGENCY:** Minerals Management Service. Interior.

**ACTION:** Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Pelto Oil Company has submitted a DOCD describing the activities it proposes to conduct on Leases OCS–G 5242 and 5243, Blocks 94 and 96, respectively, Main Pass Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Venice, Louisiana.

**DATE:** The subject DOCD was deemed submitted on January 9, 1987. Comments must be received on or before February 6, 1987, or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the

Coastal Management Section, Attention OCS Plans. Post Office Box 44487, Baton Rouge, Louisiana 70805.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Telephone (504) 736-2876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 13, 1987.

**J. Rogers Pearcy,**

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 87-1322 Filed 1-21-87; 8:45 am]

BILLING CODE 4310-MR-M

## Phillips Petroleum Co.; Development Operations Coordination Document

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that Phillips Petroleum Company has submitted a DOCD describing the activities it proposes to conduct on Leases (OCS 0299 and 0300, Block 45, and Lease OCS 0301, Block 56, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Grand Chenier, Louisiana.

**DATE:** The subject DOCD was deemed submitted on January 12, 1987.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Wholesalers Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

**FOR FURTHER INFORMATION CONTACT:** Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: January 14, 1987.

**J. Rogers Pearcy,**

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 87-1323 Filed 1-16-87; 8:45 am]

BILLING CODE 4310-MR-M

## National Park Service

## Mining Plan of Operations at Kenai Fjords National Park; Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9A, Henry W. Waterfield has filed a plan of operations in support of proposed mining operations on lands embracing the Surprise Bay No. 1 mining claim within Kenai Fjords National Park. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell St., Suite 107 Anchorage, Alaska.

**Robert L. Peterson,**

*Regional Director, Alaska Region.*

[FR Doc. 87-1343 Filed 1-21-87; 8:45 am]

BILLING CODE 4310-70-M

## Boston National Historical Park; Establishment

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of establishment—Boston National Historical Park.

Public Law 93-431 of October 1, 1974, authorized the establishment of Boston National Historical Park, as part of the National Park System, for the purpose of preserving certain historic structures and properties in Boston, Massachusetts. The sites included in the Park are Bunker Hill Monument, Dorchester Heights, a portion of the Charlestown, Navy Yard (Boston Naval Shipyard), Old North Church, Paul Revere House, Faneuil Hall, the Old State House, Old South Meeting House, and the Visitor Center, as described on the enclosed Appendix 1. These structures and properties are associated with the American Revolution and the founding and growth of the United States and posses outstanding national significance.

It has been determined that sufficient lands, improvements, and interests have been acquired and that cooperative agreements to assure the preservation and historical objectives of this Act are in force and effect. Therefore, under and by virtue of the authority contained in the Act of October 1, 1974, Boston National Historical Park is hereby established.

**Donald Paul Hodel,**

*Secretary of the Interior.*

December 18, 1986.

### Appendix 1

The Boston National Historical Park comprises the following described areas:

(1) Faneuil Hall, located at Dock Square, Boston;

(2) Paul Revere House, 19 North Square, Boston;

(3) The area identified as the Old North Church area, 193 Salem Street, Boston;

(4) The Old State House, Washington and State Streets, Boston;

(5) Bunker Hill, Breeds Hill, Boston;

(6) Old South Meeting House, Milk and Washington Streets, Boston;

(7) Charlestown Navy Yard;

(8) Dorchester Heights, Boston, and

(9) a Visitor Center, Boston,

and is depicted on the map entitled "Boundary Map, Boston National Historical Park," numbered 457-92,000C, which shall be on file and available for inspection in the office of the Superintendent, Boston National

Historical Park, Charlestown Navy Yard, Boston, Massachusetts, 02129.

[FR Doc. 87-1342 Filed 1-21-87; 8:45 am]
BILLING CODE 4310-70-M

## Management Native American Relationships Policy

**AGENCY:** National Park Service, Interior.

**ACTION:** Proposed revised management policy with request for comments.

**SUMMARY:** The National Park Service (NPS) is issuing a management policy on Native American Relationships which has been revised in response to comments received on the proposed policy published in the **Federal Register** on November 26, 1982, with a ninety-day comment period subsequently extended to April 1, 1983. This policy will replace Special Directive 78-1.

### Policy Guidelines for Native American Cultural Resources Management

Groups covered by this action are American Indians, including Carib, Arawak, Eskimo, Aleut; Native Hawaiians, Native Samoans, Chamorros and Carolinians. This policy will provide guidance to NPS personnel for management actions affecting Native Americans as defined. The policy emphasizes implementation of such activity in a knowledgeable, aware and sensitive manner. The policy directs park managers to engage in the identification of and consultation with Native American groups traditionally associated with park lands and other resources. The policy also expands and clarifies Special Directive 78-1, incorporates management needs identified by a Service task force, and provides the Service's response to the policy guidance provided in the American Indian Religious Freedom Act, Pub. L. 95-341.

**DATE:** Written comments, suggestions or objections will be accepted until February 23, 1987.

**ADDRESS:** Comments should be directed to: Office of the Special Assistant for Policy Development, National Park Service, Department of the Interior, 18th and C Streets NW., P.O. Box 37127 Washington, DC 20013-7127.

**FOR FURTHER INFORMATION CONTACT:** Geraldine Smith, Office of the Special Assistant for Policy Development, 202-343-4298; Muriel Crespi, Anthropology Division, 202-343-8156; Douglas H. Scovill, Anthropology Division, 202-343-8161. National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

**SUPPLEMENTARY INFORMATION:**

### Background

This policy replaces the current Special Directive 78-1 *Policy Guidelines for Native American Cultural Resources Management*, and defines NPS management responses to the requirements of the American Indian Religious Freedom Act and other legislation. The policy defines terms, discusses Native American traditional activities in NPS units, Native American involvement in planning, and Native American concerns in resources management, research and interpretation.

The Service has, in the past, recognized and sought to accommodate Native American requests to use areas of the National Park System (System) for traditional religious and other cultural activities, including lawful subsistence pursuits. Such uses must be within the bounds of existing legislation as well as NPS rules and polices that implement legislative mandates to protect and preserve the System's resources, both natural and cultural, and provide for their use and enjoyment by present and future generations.

The Service is hereby soliciting comments on this policy from all interested groups or individuals. We urge you to be specific on how the policy might be changed or strengthened. All comments will be reviewed and, where appropriate, incorporated. The policy will remain on review for a period of 30 days. The final policy and an explanation of how the comments were addressed will be published in the **Federal Register** following this period, and in its final form the policy will become part of the National Park Service Management Policies.

**Denis P. Galvin,**
*Acting Director.*

### Major Components

Section I presents the philosphy of the National Park Service regarding Native American Relationships and lists some of the major legislation that will affect the interpretation and implementation of this policy.

Section II explains terms used throughout the policy.

Section III discusses the practice of Native American traditional activities in NPS areas. The first paragraph discusses Native American religious practices and NPS responsibilities as addressed in Pub. L. 95-341, the American Indian Religious Freedom Act. This section also addresses the use of controlled substances in religious ceremonies. Part B of this section discusses access to and use of park areas for both religious and non-religious purposes. Part C of this section addresses the taking of natural resources inlcuding fish, wildlife, plants and other objects. The identification and protection of sacred resources, including sites, as well as policies on burial and cemetery sites are discussed in Part D.

Section IV provides for the involvement and consultation of Native Americans with traditionally established interests in parks when NPS planning and management decisions may affect such interests. It affirms the park managers' responsibilities to identify and institute continuing communication with interested Native American groups and individuals.

Section V establishes general policies on research, interpretation, and collections that may affect Native American interests. Provisions are made for confidentiality in the conduct of ethnographic and archeological studies; proper acquisition, use and display of artifacts; and accuracy in the interpretation of past and present Native American cultures.

The policy was originally published on November 26, 1982 with a request for comments. The comment period closed April 1, 1983. Comments were received from a wide range of Native American individuals and groups, Park Service offices and other government agencies. A total of 42 people or groups offered comments. Twenty were from Native Americans, including tribal councils, tribes, and individuals, eleven were from National Park Service offices and eleven were from other groups. Many of the sections have been modified, shortened, or otherwise changed in response to these comments as well as in the effort to make the policy more concise.

### Changes in Response to Comments

*Section I.A.*

One respondent suggested that the use of "cultural resource" in the introduction be changed to "cultural property". The term cultural resource can refer to attributes of intangible nature, which are important in the policy issues addressed here. The change is not incorporated.

One respondent noted that the statement, "The National Park Service is specifically charged with the mission to interpret the cultural heritage of Native American tribes or group", implies an exclusive mission. The statement is prefaced with "In many units of the National Park System . . .", and within the specified areas it is indeed an

exclusive mission. The phrase is retained.

A group objected to the qualifying language in the phrase ". . . unduly interfere with a Native American group's use of historically traditional places . . ." It was suggested that the word unduly be eliminated. Congress holds the National Park Service responsible for the ultimate operation and maintenance of areas within the System. Stating that the Service will never interfere with a Native American group's use of traditional places can be viewed as an abdication of responsibility. The Service reserves the right to make those decisions necessary to safeguard life and park resources, and provide the visiting public with the opportunities to use the park for its legislated purpose.

One respondent suggested that the philosophy statement in Section I be changed to recognize that many of the units in the system were created to interpret sites associated with past and current Native American cultures. Units within the system rarely are established to interpret current Native American cultures. The term past is deleted, however, to provide for situations in which some cultural ways continue over time and cannot be rigidly divided into past and present practices.

One group suggested amending the introduction and other sections of the policy as appropriate by inserting" . . . with the advice of a Presidentially-appointed Council of Native Americans (CNA) composed of the Secretary of the Interior and two representatives from each of the groups designated under the term "Native American." The National Park Service is working to strengthen its relationships with local Native American groups and, although the proposed idea has merit, it is declined for the following reasons: (1) Such a Presidentially-appointed group would probably deal with agencies other than just the National Park Service and not be solely available to NPS; (2) the Service does not regard its problems as being of such magnitude that they cannot be resolved by present staff and local Native American advisors; (3) such an effort could be very expensive; (4) Native Americans with specific local expertise, and certain community roles, are needed to address specific and changing issues as they arise.

One respondent took issue with the last sentence of the introduction referring to "a Native American group's use of historically traditionally places or sacred sites. . ." as being too restrictive. To clarify uses of others areas, a sentence has been added to III B.2: Use of non-historical or non-traditional locations will conform to the requirements of 36 CFR Part 2, Resource Protection, Public Use and Recreation.

Several respondents thoughts the term "history" meant excluding the use of oral history in identifying Native American patterns of traditional use. The term was not meant to exclude information collected through systematic oral interviews, participant observation, or ethnohistories. The preamble, and the definition of "Historic" in II, Explanation of Terms, have been reworded to clarify this intention.

*Section I.B*

Five comments suggested citing additional authorities in this section. Because it is not feasible to cite all pertinent legislation and other authorities in this document, the second sentence of the lead paragraph has been amended to read: "In addition to the National Park Service Organic Act of 1916, the following are among the documents that will affect the interpretation and implementation of this policy."

One comment asked that the following statement from Special Directive 78-1 be included. ". . . Native Americans may enter and camp overnight for the duration of religious ceremonies without entrance and camping fees."

Since this activity is not specifically cited as an exclusion in 36 CFR 71.13, we will insert this statement in section III B. 2.

*Section II*

One respondent commented that "A broad definition of religion should be given . . . and that . . . the policy does not recognize what constitutes religion and religious activity." It would be presumptuous of the National Park Service to define what constitutes Native American or any other religion and religious activity.

Two commenting groups objected to legally expanding the term Native American to include Native Hawaiians, Native Samoans, and Chamorros in Guam and in the Northern Marianas. Three comments suggested adding the Carolinians and one wondered why native Puerto Ricans and Virgin Islanders where not included, or why their exclusion was unexplained. This policy does not *legally* expand the definition of the term "Native American." The policy seeks to place the definitions in context by stating at the beginning of the section, "For purposes of this policy." No specific reference was made to native Puerto Ricans or Virgin Islanders because the term Native American automatically covers all Indians of the Americas, including the island Carib and Arawak. Contemporary Caribs or Arawaks historically associated with Service units in Puerto Rico or the Virgin Islands are covered by provisions of this policy, but to avoid ambiguity this is now explicitly noted in Section II, Explanation of terms. Carolinians also have been added to the Native Americans covered by this policy.

Four respondents objected to omitting pan-tribal groups from the definition of tribe or group. The omission reflects the Service's concern for groups with particular historic ties to park natural and cultural resources, and the likelihood that pan-tribal groups would not show the identical set of historical linkages to park resources. To further clarify this we have added section I.C. Pan-tribal groups wishing to hold special events at parks can be accommodated through existing policies and procedures.

Three comments addressed the definition of "Sacred Site". There was concern that the word "special" was too subjective. The word has been deleted. There also was concern that the meaning of sites changes in time, and that what is significant now may not be so in the future. We agreed with the comment and had tried to craft a definition with this in mind. Finally, there was concern that identifying a property as having religious significance for Native Americans will make it ineligible for the National Register. The National Register does not categorically exclude religious properties.

Our respondent objected to the brevity of the section on access, stating that it largely ignored the complex structure and function of Native American cermonialism. Although we recognize the complexity of Native American cermonialism, the Service has neither the right nor the responsibility to determine content or quality of traditional rituals or customs.

One comment stated that phrases such as "provide reasonable access" or "not unduly interfere with" are vague and may permit the Superintendent to grant or limit Native American access arbitrarily. The Superintendent is the agent of the National Park Service acting on its behalf, and must use discretionary authority to determine what is in the best interest of all concerned.

One respondent stated that Section A "implies that any request for religious activities is highly visible. It is not and should not be classified as a meeting or assembly". The reference in this section

only denotes the name of one of the policies with provisions applicable to Native American groups seeking access. The policy neither states nor implies that Native American religious activity is highly visible nor that it represents a meeting or assembly open to the general public.

One comment stated that language should be included in this section to assure the exercise of treaty rights such as the taking of game and fish in unsual accustomed places. This subject is dealt with in Sections 1.B. and III. C. of this policy which note treaty rights.

*Section IV*

A. Practice of Native American Religion

This section was reworded to reflect the fact that the American Indian Religious Freedom Act has led to development of Federal policies that land managers become informed about Native American religious culture, consult Native Americans about religious effects of proposed actions, and avoid unnecessary interference with traditional religious practices when Federal undertakings might affect traditional religious practices. Agency decisions regarding Native American access to and use of sacred resources for traditional ceremonies should reflect the least restrictive regulatory means available.

Most comments received on this section centered on the precedence of Federal over State law, especially in the area of Native American issues, and the legal exceptions created for religious use of peyote by members of the Native American Church. These comments were acknowledged by deleting references to the applicability of state and local law and noting the exception for peyote use by members of the Native American Church.

B. Taking of Natural Resources

Six respondents addressed questions of language used and procedures available for Native American use of resources. Three comments questioned the need for written approval while other questioned the relationship between this policy and the provisions of 36 CFR Part 2 then in effect. Other comments questioned the applicability of treaty rights to the restrictions on use of resources or the fact that some Native Americans have been dislocated from their homelands. Two comments suggested that allowing consumptive use of some resources conflicts with existing National Park Service law and regulations and that potential evaluations of impacts were ill-defined. Other comments requested clarification of legal mandates and further expansion on the Management Policies of the National Park Service.

The section governing the taking of natural resources has been rewritten to reflect changes made in 36 CFR Part 2 since the policy was first proposed. As modified, the section also provides that the taking of natural resources for use or consumption must comply with existing treaties, case and statutory law, as well as regulations and policies of the National Park Service. Separate sections on the use of endangered species have been deleted because such taking or use is also governed by law and or treaty. To provide a separate section on endangered or threatened species was viewed as a duplication of existing regulations and standards. As specified in 36 CFR Part 2, the National Park Service will make written determinations regarding resource availability prior to authorizing collecting activities. This will enable managers to monitor uses and assure appropriate environmental evaluation. Members of Native American tribes or groups who were relocated from traditional homelands but have demonstrable historical associations with park resources have the same access to traditional sacred resources as those who remained near ancestral lands.

One comment suggested that Native Americans themselves must demonstrate historical association with the resource. Native Americans should identify themselves to the Superintendent when necessary, but Supertintendents will develop lists of contemporary Native Americans who represent historically associated Native American groups as noted in the revised provisions for consultation, IV. A.

One comment suggested that the NPS is infringing on religious freedom by disallowing the taking of fish for ceremonial purposes unless provided for by law or treaty. NPS policy cannot expand existing rights, which must be done by legislative or judicial mandate. This policy is intended to provide general guidance to NPS personnel in carrying out program responsibilities that might affect Native Americans. This policy is applicable to the National Park Service *only* and cannot address broader treaty issues that involve other agencies.

One respondent suggested reproducing the Management Policies noted in IV B. These policies are too lengthy for inclusion in this document and are available at each park for public review.

C. Burial, Cemetery, Archeological and Sacred Sites.

Twenty-one comments addressed issues in the separate sections on Burial and Cemetery Sites, Archeological Sites and Sacred Sites. Six of the comments addressed the Park Service intent to consult with Native Americans and consider their advice, as opposed to balancing Native American concerns against scientific data, legal requirements, and public benefits. Other comments were concerned with maintaining the confidentiality of site location. Three commentators requested clarification on procedures for determining affiliation with Native Agmerican groups.

In response to these comments the sections have been extensively rewritten and consolidated to reflect relationships among archeological sites, burials, and other sacred resources. One of the key elements in the identification of these relationships is an open consultation process with concerned Navtive Americans in addition to archeological surveys and ethnographic and historical evaluations. Consultation is provided for in the policy in III. D. and IV. A., as well as an assurance through existing provisions of law that locations will be kept confidential.

Comments regarding excavation of known burial areas and the balancing of scientific worth or public knowledge against the desires of Native Americans have been addressed by clarifying Park Service policies against excavation of known burials and cemeteries and providing a range of decision options. Determinations of the appropriate Native American group to consult with will be based on demonstrated ancestral ties as noted elsewhere in the policies and described in NPS-28, *Cultural Resources Management Guidelines*, Release No. 3, August 1985.

One respondent suggested that because Native Americans buried at Spanish missions were baptized, consultations about disturbances to the site should be held with representatives of the religious institution, not the tribe. The change is not made because this policy and the Service *Cultural Resources Management Guidelines*, NPS-28, emphasize consultation with historically associated Native American ethnic groups, regardless of their particular religious ties.

One comment suggested that artifact gathering be allowed at archeological sites. This change has not been made. No materials defined as having archeological interest can be gathered on public lands, although under

specified conditions Federal land managers may determine that certain material remains are not considered archeological resources, according to 43 CFR 7.3(a)(5).

It was also suggested that non-NPS specialists in ethnography or cultural anthropology and archeology be consulted as needed. This change has been made.

One group suggested that the NPS restrain news media photographers from taking photographs of human remains. Through its interaction with representatives of new media, the National Park Serivce will alert such representatives to the cultural sensitivities of Native American groups.

*Section V*

Several comments were received on the sections addressing Native American Involvement and Consultation, and generally concerned the nature and extent of Native American involvement in the consulting process.

The policy has been rewritten to require the NPS to identify contemporary Native American tribes or groups with traditional interests in units of the System. When these interests may be affected by Service actions the NPS will notify and consult with appropriate groups or individuals regarding the proposed actions. As with other forms of public involvement, documentation of final decisions will be made available to consultants. This revision specifies the requirements of consultation in a more detailed fashion than the draft policy, deletes the consultant certification requirement, and broadens the potential range of opinions solicited.

One group suggested the establishment of a presidential panel rather than site or unit-specific consultants. The NPS believes that its proposed consultation process will be more flexible and facilitate more timely and appropriate responses than an appointed panel that may not represent the range of Native American concerns or expertise in local issues. See Section 1A above for futher discussion of this point.

Some respondents were concerned that the park-associated Native American tribes or groups selected for consultation and decisions about traditional activities would be based exclusively on historical accounts that had disregarded Native views, needs or presence. To clarify this, the introductory material in the policy has been rewritten to provide that demonstrable ties to NPS resources and traditional use patterns may be established by oral history and other ethnographic accounts or records.

*Section VI*

Several comments were received on the provisions dealing with research and interpretation. The majority of these comments questioned the stipulations regarding research and burial sites. Most of the comments requested clarification of this section in light of the prior section on burial policies. Accordingly, the sections dealing with burials have been consolidated and modified to reflect existing NPS and DOI policies.

Six respondents discussed differing aspects of repatriation. Most comments focused on the difficulties associated with determining custodians, objects to be repatriated, and care of repatriated items. Several comments suggested deletion of the condition that repatriated items be maintained by the tribe in accordance with museum standards. This change was made.

Another group suggested the addition of 16 U.S.C. 470dd to indicate that the Secretary of the Interior is responsible for ultimate disposition of objects. Reference was made instead to the implementing regulations, 43 CFR Part 7.13, Archaeological Resources Protection Act of 1979: Final Uniform Regulations, Custody of Archaeological Resources. Requests for repatriation, however, will continue to be considered on a case by case basis under policies and laws generally applicable to NPS museum activities. Other clarifying language has been added to this section.

A few wide-ranging comments were received on the section dealing with interpretation, including requests for greater consultation with Native Americans, establishment of cooperative programs, and more use of ethnographic or cultural anthropological data. The section has been revised in light of these comments.

**Native American Relationships**

1. Introduction
   A. Philosophy
   B. Legislation
   C. Application
II. Explanation of Terms
III. Native American Traditional Activities
   A. Practice of Native American Religion
   B. Access and Use
      1. Access
      2. Use
   C. Taking of Natural Resources
      1. Plants, Fish and Wildlife
      2. Other Natural Resources
   D. Traditional Sacred Resources
      1. Identification and Protection
      2. Burial and Cemetery Sites
IV. Planning and Operation, Resources Management
   A. Native American Involvement and Consultation
V. Research and Interpretation
   A. Archeological and Ethnographic Studies
   B. Museum Collections
   C. Interpretation

The National Park Service, to the extent consistent with each park's legislated purpose, shall develop and execute its programs in a manner that reflects knowledge of and respect for the cultures, including religious and subsistence traditions, of Native American tribes or groups with demonstrable ancestral ties to particular resources in or with the National Park system. Such ties shall be established through evidence from systematic archeological or ethnographic studies, including ethnographic oral history and enthnohistory studies, or a combination of these sources.

**I. Introduction**

*A. Philosophy*

In many units of the National Park System (System), the National Park Service (Service) is specifically charged with the mission to preserve and interpret the cultural heritage of Native American tribes or groups. In addition, many units contain natural resources as well as features of the built environment, objects and structures that are associated with traditional sacred, subsistence or other cultural practices of contemporary Native American peoples, and necessary for their cultural continuity. Service plans, programs and activities all have the potential to affect such places and resources, and the cultural activities associated with them. Implementation of this policy is meant to ensure that (1) the Service's general regulations on access to and use of park natural and cultural resources are applied in an informed and balanced manner that does not unreasonably interfere with Native American use of traditional areas or sacred resources nor result in degradation of unit resources, (2) Service managers establish and maintain effective consulting relationships with potentially affected Native American tribes and groups, and (3) management decisions will consider the concerns of potentially affected Native American tribes or groups.

*B. Legislation*

Numerous laws, Executive Orders, treaties, and cooperative agreements provide for assistance, give rights of use resources administered by the Service or define relationships between the Service and Native Americans. In addition to the National Park Service Organic Act of 1916, and park-specific enabling

legislation, the following are some of the principal documents that will affect the implementation of this policy:

Antiquities Act of 1906 (Pub. L. 209) as amended.

Historic Sites Act of 1935 (Pub. L. 74–292).

National Historic Preservation Act of 1966 (Pub. L. 89–665, as amended by Pub. L. 91–423, Pub. L. 95–422 Pub. L. 94–458 and Pub. L. 96–515).

National Environmental Policy Act of 1969 (Pub. L. 91–190).

Endangered Species Act of 1973 (Pub. L. 93–205, as amended by Pub. L. 94–325, Pub. L. 94–359).

The American Indian Religious Freedom Act of 1978 (Pub. L. 95–341).

The Archaeological Resources Protection Act of 1979 (Pub. L. 96–95).

Alaska National Interest Lands Conservation Act of 1980 (Pub. L. 96–487).

Museum Properties Management Act of 1955 (Pub. L. 84–127).

E.O. 11593 Protection and Enhancement of the Cultural Environment (1971).

36 CFR Chapter 1, National Park Service, Department of the Interior.

40 CFR Parts 1500 through 1517 Council on Environmental Quality.

43 CFR Part 7 Archaeological Resources Protection Act of 1979: Final Uniform Regulations.

National Park Service *Management Policies*, 1978.

NPS–28, National Park Service *Cultural Resources Management Guideline, Release No. 3, August 1985.*

National Park Service *Museum Handbook.*

*C. Application*

This policy applies only to those groups specified in Section II.

**II. Explanation of Terms**

For purposes of this policy, the term "Native American" applies to American Indians, including Carib and Arawak; Eskimo; Aleut; Native Hawaiians; Native Samoans; Chamorros and Carolinians.

"Tribe or Group" applies to any Nation, tribe, band or group of Native Americans recognized in statute or treaty by Federal or State governments; or any group of Native Americans who are identified by themselves and recognized by others as members of a named cultural unit that historically has shared linguistic, cultural, social (kinship) and related characteristics that distinguish it ethnically from other Native American groups. "Tribe or group" does not apply here to Native Americans of diverse cultural backgrounds (pan-tribal organizations) who voluntarily associate together for some purpose or purposes.

"Sacred Resources" applies to traditional sites, places or objects that Native American tribes or groups, or their members, perceive as having religious significance.

"Traditional" applies to beliefs and behaviors that have been transmitted across generations, and are identified by their Native American practitioners to be necessary for the perpetuation of their cultures. Characteristically, cultural practices are so interrelated that religious activities are not totally separable from subsistence, family life or other feature. Traditional also applies to the sites, objects, or places intimately associated with those beliefs or behaviors.

"Ethnographic resource" refers to park resources with subsistence, sacred ceremonial or religious, or other cultural meaning for contemporary Native Americans.

"Historic" refers to prehistoric, ancestral, or traditional relationships, practices, or cultural resources that demonstrate cultural significance or persistence over time, as evidenced by archeological and ethnographic studies, including oral histories and ethnohistories.

**III. Native American Traditional Activities**

*A. Practice of Native American Religion*

Public Law 95–341, the American Indian Religious Freedom Act, enacted on August 11, 1978, states that "henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." This statute does not create additional rights or change existing authorities. It has, however, led Federal agencies to develop policies that managers become informed about Native American religious culture, consult Native Americans about religious effects of proposed actions, and avoid unnecessary interference with traditional religious practices that Federal undertakings might affect. Agency decision-making regarding Native American access to and use of traditional sacred resources for customary ceremonials should reflect the least restrictive regulatory means available.

The non-drug use of peyote for ceremonial purposes is limited to members of the Native American Church during religious ceremonies. The following holds in accord with regulations of the Department of Justice, Drug Enforcement Administration: 21 CFR 1307.31, Special Exempt Persons: Native American Church:

"The listing of peyote as a controlled substance in Schedule 1 does not apply to the nondrug use of peyote in bona fide religious ceremonies of the Native American Church, and members of the Native American Church so using peyote are exempt from registration. Any person who manufactures peyote for or distributes peyote to the Native American Church, however, is required to obtain registration annually and to comply with all other requirements of the law."

*B. Access and Use*

1. Access

The Superintendent shall provide reasonable access to Native Americans for pursuit of religious activities in National Park Service areas to the extent permitted by the provisions of NPS *Management Policies* on Religious Activities VII–18 and Public Assembly VII–21 to 23. When appropriate, a permit may be required in accord with 36 CFR 2.50 "Special Events" or 2.51 "Public Assemblies, Meetings."

Native Americans may obtain a waiver of fees from the Superintendent when making a non-recreational visit to a unit of the National Park System for religious or other traditional purposes.

2. Use

Members of Native American tribes or groups shall be permitted to perform traditional religious or other customary activities at places within park areas which have been used historically for such purposes, in accordance with the principles stated in section A and B.1 above and the limitations noted in section C. Native Americans may enter and camp overnight for the duration of religious ceremonies without entrance and camping fees.

Use of non-historical or non-traditional locations, and activities that physically impact park resources, shall be subject to regulations in 36 CFR Part 1, General Provisions, and 2, Resource Protection, Public Use and Recreation. Superintendents may require a permit in accord with 36 CFR 2.50 or 2.51. Performance of a traditional ceremony or the conduct of a religious activity at a particular place shall not form the basis for prohibiting others from using such areas.

Native Americans seeking to use park areas under this section should consult with the park Superintendent about the proposed activity, orally or in writing. The denial of permission to carry out the activity or the imposition of any condition thereon may be appealed by the applicant to the Regional Director.

*C. Taking of Natural Resources*

1. Plants, Fish and Wildlife

The taking of fish and wildlife by Native Americans for the pursuit of traditional subsistence or religious activities is permitted when authorized by law or existing treaty rights, or in accord with 36 CFR 2.1 to 2.3 and National Park Service *Management Policies*, IV–3 to IV–11.

Disposal of surplus wildlife and carcasses shall continue as outlined in NPS *Management Policies* IV–10, with preference given to Native American groups.

Gathering of plants that are controlled substances is permitted when in accord with the exemption noted in 21 CFR 1307.31 regarding peyote for use by the Native American Church.

2. Other Natural Resources

In accord with 36 CFR 2.1(c)(1) the Superintendent may designate certain fruits, berries, nuts or unoccupied seashells that can be gathered by hand for personal use or consumption upon a written determination that the gathering or consumption will not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources. The collection of minerals and rocks is permitted when authorized by law or treaty rights, or in accord with NPS regulation.

*D. Traditional Sacred Resources*

1. Identification and Protection

The Service shall establish and maintain consultative relationships with Native American groups who have historical ties to specific park lands, to discuss their concerns about protection for and access to sacred resources, including sites, places, or objects under Service stewardship. To the extent consistent with legislation and Service capabilities, the Service will provide for the protection of sacred resources in a manner consistent with the goals of the associated Native American group.

Under the provisions of the Archaeological Resources Protection Act of 1979, and the 1966 National Historic Preservation Act, as amended, information on the location and character of qualified sites is excepted from public disclosure under the Freedom of Information Act.

Undertakings affecting properties that are on or eligible for inclusion on the National Register of Historic Places shall comply with current procedures of the Advisory Council on Historic Preservation.

2. Burial and Cemetery Sites

Historic or prehistoric Native American burial areas whether or not formally plotted and enclosed as cemeteries shall be located, identified and appropriately protected to the extent practicable. Burial areas generally shall not be disturbed, destroyed, or archeologically investigated unless there are no feasible and prudent alternatives.

The Service will consult appropriate Native American individuals and groups concerning the proper treatment and disposition of human remains historically or prehistorically associated with such individuals or groups, when such remains may be disturbed or encountered as a result of activities carried out on National Park System lands. The Service shall make every reasonable effort to consult individuals presently linked to the disturbed sites by ties of kinship or culture when ethnically identifiable remains are encountered. The objective of consultation will be to acquire data needed for informed decisions concerning the treatment and/or disposition of the remains.

In reaching its decision, the Service will consider the preferences of Native American consultants and any existing formal burial policy established by the tribe to the maximum extent feasible under current law. Park managers shall also acquire the recommendations of Service archeologists as well as applied anthropologists or ethnographers and, if circumstances require it, representatives from the State Historic Preservation Office and the Advisory Council on Historic Preservation.

Management decisions shall give full consideration to the following range of principal decision alternatives:

—Redesign of project to avoid disturbance of interment;

—Removal of remains and reburial without recordation and study;

—Removal of remains and reburial with limited recordation and study;

—Removal of remains and reburial with full recordation and study;

—Removal of remains, full recordation and study, and retention of remains as part of the Service museum collection.

**IV. Planning, Resources Management and Operation**

*A. Native American Involvement Consultation*

The Service shall implement a consultation program conforming to NPS–28, "Cultural Resources Management Guideline" Techical Supplement, Chapter 7, (Ethnographic Program) August 1985, The program shall promote and provide for rugular active consultation with Native American groups in planning, managment, and operations decisions that affect the subsistence and sacred materials or places, or other ethnographic resources as appropriate, with which the group is historically associated.

Superintendents shall maintain a current roster of potential consultants from the associated group, and meet with individuals on the list as well as with other members of the tribe or group as the need arises. Consultation shall occur at the earliest practicable time, as soon as a need is defined or an action is foreseeable, and continue through all phases of decision-making. The Service shall seek the broadest feasible range of views from members of the involved group, while recognizing that it must also respect the views of the group's tribal chair or other formal leaders. The Service shall become informed about the diverse views held by people who differ in age, sex, and technical and religious expertise, and consider these in formulating alternative actions or reaching decisions affecting their traditional interests in resources or programs within the park.

While the NPS shall seek the broadest feasible spectrum of views, it will negotiate legal issues with individuals selected or approved by the group or tribe, and empowered to speak or act on its behalf, when matters concern the larger group. Individual concerns will be considered on a case by case basis.

Documentation of the decision-making process and the final decision, whether or not carried out under the National Environmental Policy Act (NEPA), shall be made available to the consulting group by the Superintendent or Regional Director. Although final decisions in all cases shall consider the results of consultations, the authority and the responsibility for the decision rests with the Service.

**V. Research and interpretation**

*A. Archeological and Ethnographic Studies*

In some instances differences may arise between the NPS and Native Americans over the National Park Service's need to know and understand current and past lifeways and the Native Americans' need to protect from desecration and public knowledge their religious or other cultural values and practices. This is further complicated by the fact that some information acquired by the National Park Service is used in public programs that interpret cultural

and natural resources. Studies in archeology, ethnography, history, or other discipline carried out or sponsored by the National Park Service shall reflect sensitivity to the privacy of community consultants regarding their practices, beliefs, and identities, and follow the relevant procedures noted in NPS–28, *Cultural Resources Management Guideline* August 1985.

*B. Museum Collections*

In acquiring, maintaining, using and disposing of museum collections associated with a particular Native American tribe or group, the Service will carry out consultations in accordance with section IV, A, above.

The Service shall acquire only collections having a legal and ethical pedigree in accord with existing laws, Service *Management Policies,* and implementing guidelines and standards. Objects from museum collections may be loaned, exchanged or disposed of in accordance with the Museum Properties Management Act, 43 CFR 7.13, other applicable laws, and the NPS *Museum Handbook.*

The Service shall repatriate artifacts and specimens only when otherwise lawful and it can be shown by a Native American tribe or group that the material is their inalienable communal property. Requests for repatriation must be made by the representatives selected by the tribe or group, and empowered to act on its behalf. Requests and conditions of repatriation shall be considered by the Service only on a case by case basis.

Members of Native American tribes or groups shall be able to inspect or study Service artifacts, specimens and museum records that are pertinent to that tribe or group, consistent with standards for the use and preservation of collections.

*C. Interpretation*

The Service shall actively seek Native American consultation in the planning, development, and operation of park interpretive programs that relate to the culture and history of the particular tribe or group, shall develop cooperative programs with tribes and groups to assist the Service in the interpretation of their cultural heritage in parks, and shall provide fr presentation of Native American perspectives of their own lifeways and resources, both cultural and natural. Ethnographic or cultural anthropological data and concepts will also be used as appropriate.

To avoid ethnocentrism, the Service will present factual, balanced and, to the extent achievable, value-neutral presentations of both Native American and non-Native American cultures, heritage and history.

The Service shall not display disinterred skeletal or mummified human remains or grave goods and other objects that Native Americans, culturally associated with them, regard as traditionally sacred. Consultation with associated Native Americans will precede the display of any object, the sacred nature of which is suspected, but not confirmed, to determine its religious status before selecting an appropriate course of action.

[FR Doc. 87–1344 Filed 1–21–87; 8:45 am]
BILLING CODE 4310–70–M

## INTERNATIONAL TRADE COMMISSION

### Agency Information Collection Activities Under OMB Review

**AGENCY:** International Trade Commission.

**ACTION:** In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of Information Collected: The proposed collection is for use by the Commission in connection with investigation No. 332–242, Preshipment Inspection Programs and their Effects on U.S. Commerce, instituted under the authority of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332).

Summary of Proposal.

(1) Number of forms submitted: one
(2) Title of form: Preshipment Inspection Programs: Questionnaire for U.S. Producers and Exporters
(3) Type of request: New
(4) Frequency of use: Nonrecurring
(5) Description of respondents: Firms that export to certain countries requiring preshipment inspections
(6) Estimated number of respondents: 816
(7) Estimated total number of hours to complete the forms: 16,320

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm. The Commission may be required to disclose to the USTR all or part of the responses to this questionnaire. The USTR will maintain confidentiality of such information consistent with its regulations.

Additional Information or Comment: Copies of the proposed form and supporting documents may be obtained from Constance Hamilton, (USITC tel. no. 202–523–1179). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC, 20503, Attention: Francine Picoult, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire or study plan is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

Submission of Comments; Comments should be submitted to OMB within two weeks of the date of this notice appears in the **Federal Register.** If you are unable to submit them promptly you should advise OMB within the two week period of your intent to comment on the proposal. Ms. Picoult's telephone number is 202–395–7340. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, DC. 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

Issued: January 13, 1986.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1387 Filed 1–21–87; 8:45 am]
BILLING CODE 7020–02–M

### Agency Information Collection Activities Under OMB Review

**AGENCY:** International Trade Commission.

**ACTION:** In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with investigation No. 332–231, Competitive Assessment of the U.S. Steel Sheet and Strip Industry, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

Summary of Proposals:

(1) Number of forms submitted: two

(2) Title of form: competitive assessment of the U.S. steel Sheet and Strip Industry Questionnaires for U.S. Producers and Purchasers
(3) Type of request: New
(4) Frequency of use: Nonrecurring
(5) Description of respondents: Firms which produce or purchase steel sheet and strip
(6) Estimated number of respondents: 226
(7) Estimated total number of hours to complete the forms: 3,580
(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or comment: Copies of the proposed form and supporting documents may be obtained from Ann Reed, (USITC, tel. no. 202–523–0255). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attnention: Francine Picoult, Office of Information and Regulatory Affairs, Desk Officer for U.S. International Trade Commission. If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent within two weeks of the date this notice appears in the **Federal Register**. Ms. Picoult's telephone number is 202–395–7340. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW., Washington, DC 20436).

Issued: January 12, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1388 Filed 1–21–87; 8:45 am]

BILLING CODE 7020–02–M

---

**[Investigation No. 701–TA–284 (Final)]**

## Bicycle Tires and Tubes From Korea

**AGENCY:** International Trade Commission.

**ACTION:** Termination of investigation.

**SUMMARY:** On January 13, 1987, the Commission received a letter from the U.S. Department of Commerce stating that, having received a letter from petitioner in the subject investigation (Carlisle Tire & Rubber Company) withdrawing its petition, Commerce was terminating its countervailing duty investigation on bicycle tires and tubes from Korea. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the subject investigation is terminated.

**EFFECTIVE DATE:** January 13, 1987.

**FOR FURTHER INFORMATION CONTACT:** Robert Carpenter (202–523–0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contracting the Commission's TDD terminal on 202–724–0002.

**AUTHORITY:** This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40).

Issued: January 13, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1389 Filed 1–21–87; 8:45 am]

BILLING CODE 7020–02–M

---

**[Investigations Nos. 731–TA–367 Through 370 (Preliminary)]**

## Color Picture Tubes From Canada, Japan, the Republic of Korea, and Singapore

### Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a resaonable indication that an industry in the United States is materially injured by reason of imports from Canada (inv. No. 731–TA–367), Japan (inv. No. 731–TA–368), the Republic of Korea (inv. No. 731–TA–369), and Singapore (inv. No. 731–TA–370) of color picture tubes, provided for in Tariff Schedules of the United States (TSUS) items 684.96 and 687.35,[2] which are alleged to be sold in the United States at less than fair value (LTFV).

### Background

On November 26, 1986, petitions were filed with the Commission and the Department of Commerce on behalf of the International Association of Machinists and Aerospace Workers; the International Brotherhood of Electrical Workers; the International Union of Electric, Electrical, Technical, Salaried and Machine Workers, AFL-CIO-ClC; and the Industrial Union Department, AFL-CIO, all of Washington, DC. Accordingly, effective November 26, 1986, the Commission instituted preliminary antidumping investigations Nos. 731–TA–367 through 370 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of December 8, 1986 (51 FR 44130). The conference was held in Washington, DC, on December 17, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on January 12, 1987. The views of the Commission are contained in USITC Publication 1937 (January 1987), entitled "Color Picture Tubes From Canada, Japan, the Republic of Korea, and Singapore: Determinations of the Commision in Investigations Nos. 731-TA-367 through 370 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: January 13, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1390 Filed 1–21–87; 8:45 am]

BILLING CODE 7020–02–M

---

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Color picture tubes imported separately are classified in item 687.35 of the TSUS; color picture tubes may also be imported as part of color television receiver kits or incomplete receivers, which are provided for in TSUS item 684.96.

---

**[Investigations Nos. 731–TA–321 Through 325 (Final)**

## Certain Unfinished Mirrors From the Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom

### Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Eckes dissenting and Commissioner Stern not participating.

section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from the Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom of unfinished glass mirrors,[3] 15 square feet or more in reflecting area, provided for in item 544.54 of the Tarriff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

**Background**

The Commission instituted these investigations effective September 12, 1986, following preliminary determinations by the Department of Commerce that imports of the above referenced mirrors from the Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 1, 1986 (51 FR 35059). The hearing was held in Washington, DC, on December 2, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on January 9, 1987. The views of the Commission are contained in USITC Publication 1983 (January 1987), entitled "Certain Unfinished Mirrors From the Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom: Determinations of the Commission in Investigations Nos. 731-TA-321 Through 325 (Final) Under the Tarrif Act of 1930, Together With the Information Obtained in the Investigations."

Issued: January 12, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87-1395 Filed 1-21-87; 8:45 am]

BILLING CODE 7020-02-M

[3] Mirrors which have not been subjected to any finishing operations such as beveling, etching, edging, or framing.

**[Investigation No. 337-TA-245]**

## Certain Low-Nitrosamine Trifluralin Herbicides; Commission Decision to Affirm Initial Determinations; Termination of Investigation

**AGENCY:** International Trade Commission.

**ACTION:** Notice is hereby given that the Commission has, on review, determined to affirm the administrative law judge's (ALJ's) initial determinations (ID's) (Orders Nos. 25 and 26) terminating all respondents in the above-captioned investigation on the basis of a consent order and settlement and licensing agreements. The termination of all respondents terminates the investigation. The Commission also determined to issue the consent order which is the subject of Order No. 25.

**AUTHORITY:** The authority for the Commission's action herein is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53-210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.53-210.56).

**FOR FURTHER INFORMATION CONTACT:** Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

**SUMMARY:** On October 6, 1986, the presiding ALJ issued two IDs (Orders Nos. 25 and 26) terminating all the respondents in the above-referenced investigation on the basis of a consent order and settlement and licensing agreements. Order No. 25 terminated respondents Agan Chemical Manufacturers Ltd. and Makhteshim-Agan (America) Inc. (Agan) on the basis of a consent order. The consent order is based on a consent order agreement which is accompanied by settlement and license agreements between complainant Eli Lilly and Co. (Lilly) and Agan. Order No. 6 terminates respondents Industria Prodotti Chimici, S.p.A. (I.Pi.Ci.) and Aceto Agricultural Chemicals Corp. (Aceto) on the basis of settlement agreements among Lilly, I.Pi.Ci. and Aceto and a license agreement between Lilly and I.Pi.Ci. No petitions for review or comments from Government agencies or the public were received. On November 6, 1986, the Commission determined on its own motion that the following policy issue warranted review:

Whether the consent order which is the subject of Order No. 25 should be issued, in view of the fact that the respondents concerned therein (Agan) have concluded settlement and license agreements with complainant Lilly. The Commission is particularly interested in the justification for further expenditures of public resources which might be involved in monitoring or enforcing the consent order. The Commission notes that Order No. 26 terminates the respondents concerned therein (I.Pi.Ci. and Aceto) on the basis of settlement and license agreements alone.

The parties to the investigation and interested Government agencies were requested to file written submissions on the issue under review by November 20, 1986. Reply submissions on the issue under review were due not later than the close of business on December 3, 1986. Lilly, I.Pi.Ci., and the Commission investigative attorney filed written submissions. The Commission investigative attorney filed a reply submission. No submissions were received from Government agencies.

Termination of the investigation furthers the public interest by conserving Commission resources and those of the parties involved.

Notice of this investigation was published in the **Federal Register** of April 9, 1986 (51 FR 12218). Copies of the nonconfidential version of the ALJ's IDs and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-523-0002.

Issued: January 9, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87-1391 Filed 1-21-87; 8:45 am]

BILLING CODE 7020-02-M

**[Investigation No. 337-TA-237]**

## Certain Miniature Hacksaws; Commission Final Determination and Issuance of General Exclusion Order and Five Cease and Desist Orders

**AGENCY:** International Trade Commission.

**ACTION:** Determination of violation of section 337, issuance of general exclusion order and five cease and desist orders.

**SUMMARY:** Having reviewed in part the initial determination (ID) in the above-captioned investigation, the Commission has determined that there is a violation of section 337 of the Tariff Act of 1930.

In addition, the Commission has determined that a general exclusion order and cease and desist orders directed to respondents Alltrade, Inc.; M&S Krasnow, Inc.; the Disston Company, Inc.; Menard, Inc.; and Borsumij Wehry (U.S.A.), Inc., pursuant to sections 337 (d) and (f) of the Tariff Act of 1930 (19 U.S.C. 1337 (d) and (f)) are the appropriate remedies for the section 337 violation found to exist; that the public interest considerations enumerated in sections 337 (d) and (f) do not preclude such relief; and that the amount of the bond during the Presidential review period under section 337(g) shall be 215 percent of the entered value of the imported articles.

**FOR FURTHER INFORMATION CONTACT:** Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

**SUPPLEMENTAL INFORMATION:** This investigation was instituted on January 8, 1986, 51 FR 1860 (1986). On October 15, 1986, the presiding administrative law judge (ALJ) issued an ID that there is a violation of section 337 in the importation and sale of certain miniature hacksaws. Respondents Alltrade, Inc.; Menard, Inc.; Borsumij Wehry (U.S.C.), Inc.; and M&S Krasnow, Inc. (petitioning respondents), petitioned for review of certain parts of the initial determination pursuant to § 210.54 of the Commission's rules. Complainant, The Stanley Works, and the Commission investigative attorney filed responses. The Commission received no comments from other Government agencies.

After examining the petition for review and the responses thereto, the Commission concluded that the following issues warranted review:

1. Whether U.S. Letters Patent 3,756,298 is invalid as obvious pursuant to 35 U.S.C. 103; and

2. Whether U.S. Letters Patent Des. 228,236 is invalid as obvious pursuant to 35 U.S.C. 103.

51 FR 44535 (1986).

The Commission requested written submissions by the parties to the investigation and interested Government agencies on the legal issues under review as well as on remedy, the public interest, and bonding.

The Commission received briefs from complainant, the petitioning respondents, and the Commission investigative attorney (IA) on the issues under review and from complainant and the IA on remedy, the public interest, and bonding. The Commission received no comments from other Government agencies.

Upon consideration of the written submissions and the entire record in this investigation, the Commission determined to affirm the ID with respect to the questions under review, as modified by the Commission's opinion. In addition, the Commission rendered determinations on the questions of remedy, bonding, and the public interest.

The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (19 CFR 210.53–210.56).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. The Commission Opinion in support of its determination will issue shortly. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: January 15, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1392 Filed 1–21–87; 8:45 am]

BILLING CODE 7020–02–M

---

**[Investigation No. 332–242]**

## Preshipment Inspection Programs and Their Effect on U.S. Commerce

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice of public hearing.

**EFFECTIVE DATE:** March 2 and 3, 1987.

**FOR FURTHER INFORMATION CONTACT:** Ms. Constance Hamilton, Office of Economics, U.S. International Trade Commission, Washington, DC 20436, telephone 202–523–1179.

Background: The Commission instituted the investigation, No. 332–242, on December 16, 1986, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) following receipt on October 24, 1986 of a request therefor from the U.S. Trade Representative. Notice of the investigation was presented in the **Federal Register** December 31, 1986.

Public Hearing: The Commission will hold a public hearing in connection with the investigation in Miami, Florida at the Omni Hotel and Convention Center, Biscayne Blvd. at 16th Street, beginning at 9:30 a.m. on March 2, 1987. All interested persons shall have the right to appear by counsel or in person, to present information and to be heard. The deadline for filing pre-hearing briefs and requests to testify is February 12, 1987. Interested persons not wishing to testify are invited to submit written statements concerning the investigation. All written statements, including post-hearing briefs, should be received by the close of business on March 30, 1987. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Issued: January 15, 1986.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87–1393 Filed 1–21–87; 8:45 am]

BILLING CODE 7020–02–M

---

**[Investigation No. 731–TA–335 (Final)]**

## Tubeless Steel Disc Wheels From Brazil

**AGENCY:** International Trade Commission.

**ACTION:** Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–335 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of tubeless steel disc wheels,[1] provided for in item

[1] Such wheels are designed to be mounted with pneumatic tires, have a rim diameter of 22.5 inches or greater, and are suitable for use on class 6, 7, and 8 trucks, including tractors, and for use on semi-trailers and buses.

692.32 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before March 4, 1987, and the Commission will make its final injury determination by April 27, 1987 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

**EFFECTIVE DATE:** December 29, 1986.

**FOR FURTHER INFORMATION CONTACT:** Diane J. Mazur (202-523-7914), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

**SUPPLEMENTARY INFORMATION:**

### Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of tubeless steel disc wheels from Brazil are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on May 23, 1986, by the Wheel and Brake Division of the Budd Company, Troy, Michigan. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (51 FR 25752, July 16, 1986).

### Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

### Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

### Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on March 9, 1987, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

### Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on March 24, 1987, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on March 9, 1987. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on March 12, 1987, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is March 19, 1987.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be sumbitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

### Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the puublic hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22) Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on March 31, 1987. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before March 31, 1987.

A signed original and fourteen (14) copies of each submissions must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6)

**Authority.** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: January 15, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87-1394 Filed 1-21-87 8:45 am]

BILLING CODE 7020-02-M

---

**[Investigation No. 337-TA-250]**

## Certain Ventilated Motorcycle Helmets; Commission Decision Not To Review Initial Determination Terminating Investigation as to Two Respondents on the Basis of a Settlement Agreement

**AGENCY:** International Trade Commission.

**ACTION:** Termination of investigation as to two respondents on the basis of a settlement agreement.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 18) granting a motion to terminate the above-captioned investigation as to respondents Arai Helmets, Ltd. (Japan), and Arai Helmets, Ltd. (U.S.A.), on the basis of a settlement agreement.

**FOR FURTHER INFORMATION CONTACT:** Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

**SUPPLEMENTARY INFORMATION:** On May 28, 1986, Bell Helmets, Inc. (Bell), filed a complaint pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) with the Commission alleging unfair acts in the importation and sale of certain ventilated motorcycle helmets. The unfair acts alleged were infringement of Bell's U.S. Letters Patents 4,054,953 and 4,555,816. On November 21, 1986, Bell and the Arai respondents filed a joint motion, pursuant to § 210.51 of the Commission's rules to terminate the investigation as to the Arai respondents on the basis of a settlement agreement. On December 11, 1986, the presiding administrative law judge issued an ID granting the motion and terminating the investigation as to the Arai respondents on the basis of a settlement agreement. No petitions for review or comments from Government agencies or the public were received concerning the ID.

This action is taken under the authority of section 337 of the Tariff Act of 1930 and Commission rule 210.53 (19 CFR 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: January 12, 1987.

By order of the Commission.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 87-1397 Filed 1-21-87; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

**[Finance Docket No. 30966]**

### Boston and Maine Corp.; Lease; Springfield Terminal Railway Co.; Exemption

Boston and Maine Corporation (B&M), a wholly-owned subsidiary of Guilford Transportation Industries, Inc. (GTI), has filed a notice of exemption to lease to Springfield Terminal Railway Company (ST), also a wholly-owned subsidiary of GTI, the following lines of B&M in the State of New Hampshire:

(1) The Portsmouth Branch between a connection with the B&M Freight Main Line at M.P. 30.44 (Rockingham Junction), and M.P. 39.45 (Emery), a distance of approximately 9 miles;

(2) The Hampton Branch between a connection with the Portsmouth Branch at M.P. 55.98 (Emery), and M.P. 39.32 (Salisbury), a distance of approximately 16.66 miles; and

(3) The Newington Branch between a connection with the Hampton Branch at M.P. 0.00 (Portsmouth), and M.P. 3.27 (Newington), including the Navy Yard Spur track, a distance of approximately 3.27 miles.

The lease and operation of these B&M lines by ST is a transaction within a corporate family that will not affect the level of service, not involve significant operational changes, and not change the competitive relationship of the B&M or GTI system with carriers outside the corporate family. The lease and operation comes within the class of transactions exempted from prior approval under 49 U.S.C. 11343 by 49 CFR 1180.2(d)(3).

Railroad employees affected by the transaction will be protected by the conditions in *Mendocino Coast Ry., Inc.—Lease and Operate* (*Mendocino*), 354 I.C.C. 732 (1978), as modified at 360 I.C.C. 653 (1980). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Decided: January 14, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

**Noreta R. McGee,**

*Secretary.*

[FR Doc. 87-1288 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

[1] In two other proceedings under the notice of exemption procedures, Finance Docket No. 30965, involving a trackage rights and lease between the Delaware and Hudson Railway and the ST, and in Finance Docket No. 30967, involving a lease between the Main Central Railroad Company and the ST, the Railway Labor Executives' Association (RLEA) petitioned for the imposition of the labor protective conditions developed by the Commission in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), in lieu of the Mendocino conditions. A Commission decision will follow to consider RLEA's petition

---

**[Finance Docket No. 30955]**

### Boston and Maine Corp.; Lease; Springfield Terminal Railway Co.; Exemption

Boston and Maine Corporation (B&M), a wholly-owned subsidiary of Guilford Transportation Industries, Inc. (GTI), has filed a notice of exemption to lease to Springfield Terminal Railway Company (ST), also a wholly-owned subsidiary of GTI, the following lines of B&M in the Boston area:

(1) The Medford Branch between the connection with the MBTA Western Route Main Line at M.P. 3.19 (Wellington) and M.P. 4.61 (Park Street), a distance of approximately 1.4 miles;

(2) The Mystic Wharf Branch between the easterly limits of FX Interlocking and the end of track, a distance of approximately 1.4 miles, including all yard tracks connected thereto east of FX Interlocking, also known as Yard 19, the Charlestown;

(3) The Watertown Branch between the connection with the MBTA Fitchburg Route Main Line at M.P. 4.16 (West Cambridge) and M.P. 6.93 (Union Market), a distance of approximately 2.8 miles;

(4) The Bemis Branch between the connection with the MBTA Fitchburg Route Main Line at M.P. 9.86 (Waltham) and M.P. 9.08 (Bemis), a distance of approximately 1.8 miles; and

(5) The South Reading Branch between a connection with the MBTA Salem and Danvers Branch in Peabody and the end of track, a distance of approximately 3.5 miles.

The lease and operation of these B&M lines by ST is a transaction within a corporate family that will not affect the level of service, not involve significant operational changes, and not change the competitive relationship of the B&M or GTI system with carriers outside the corporate family. The lease and operation comes within the class of transactions exempted from prior approval under 49 U.S.C. 11343 by CFR 1180.2(d)(3).

Railroad employees affected by the transaction will be protected by the conditions in *Mendocino Coast Ry., Inc.—Lease and Operate* (Mendocino), 354 I.C.C. 732 (1979), as modified at 360 I.C.C. 653 (1980). This will satisfy the

statutory requirements of 49 U.S.C. 10505(g)(2)[1]

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of petitions to revoke will not stay the transaction.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1289 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

---

[Finance Docket No. 30965]

## Delaware and Hudson Railway Co.; Lease and Trackage Rights Exemption; Springfield Terminal Railway Co.; Exemption

Delaware and Hudson Railway Company (D&H) and Springfield Terminal Railway Company (ST) filed a notice of exemption for D&H to lease to ST the following lines of railroad in the vicinity of Saratoga Springs, NY:

(1) The Adirondack Branch between a connection with the Canadian Main Line at M.P. A-38.2 (CPC 38) and the end of the ownership of D&H at M.P. A-94.96, a distance of approximately 56.76 miles; and

(2) All yard, running, industry lead, and side tracks in the Saratoga Yard on either side of the Canadian Main Line between M.P. A-37.51 and M.P. A-34.97.

In order to facilitate ST's operations on the Adirondack Branch, D&H will grant trackage rights to operate over its main line between Albany and Canada, as follows:

(1) Between M.P. A-38.2 (CPC 38) and a connection with the Saratoga Springs Running Track at M.P. 37.51 (CPC 37); and

(2) Between a connecton with the Saratoga Springs Running Track at M.P. 37.51 (CPC 37) and M.P. A-34. D&H will interchange traffic at a mutually agreeable location. The purpose of these transactions is to enable ST to carry on operations now performed by D&H.

D&H and ST are wholly-owned subsidiaries of Guilford Transportation Industries, Inc. (GTI). GTI also owns the Maine Central Railroad Company and the Boston and Maine Corporation. As a result of the proposed transaction, it is anticipated that ST will provide a more responsive and efficient service to rail customers than D&H is now providing. D&H will improve its financial viability by eliminating operations which are costly to perform in relation to the revenues which are realized. With its lower cost structure, ST should be able to perform these operations on a profitable basis.

Since D&H and ST are members of the same corporate family, both the lease and the assignment of trackage rights fall within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(3). The transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption any employees affected by the lease transaction would normally be protected by the labor protective conditions set forth in *Mendocino Coast Ry., Inc.—Lease and Operate,* 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980). Similarly, any employees affected by D&H's grant of trackage rights to ST would normally be protected by the conditons set forth in *Norfolk & Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast, supra,* 360 I.C.C. 653 (1980). These conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2) for the respective transactions.

However, in connection with the lease transaction, the Railway Labor Executives' Association (RLEA), by petition filed December 31, 1986, requests the imposition of the labor protective conditions developed by the Commission in *New York Dock Ry.—Control—Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979). Drawing an analogy to *Union Pacific—Control—Missouri Pacific; Western Pacific,* 366 I.C.C. 459 (1982), RLEA contends that the *New York Dock* conditions should also apply to this lease transaction because it is allegedly just another transaction to further the control benefits attributable to the original acquisition of D&H by GTI. The *New York Dock* conditions were also imposed in that acquisition. *See Guilford Transp. Industries, Inc.—Control—D&H Ry. Co.,* 366 I.C.C. 396, 425 (1982). A separate Commission decision will follow to consider which conditions should be imposed.

Decided: January 14, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1290 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

---

[Finance Docket No. 30958 (Sub-No. 1)]

## Genesee & Wyoming Industries, Inc.; Exemption, Control; Louisiana & Delta Railroad, Inc.; Exemption

On December 23, 1986, Genesee & Wyoming Industries, Inc. (GWI), filed a notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of the Louisiana & Delta Railroad, Inc. (L&D), upon the commencement of rail operations by L&D. GWI pesently controls three Class III railroads: Genesee & Wyoming Railroad Company (GWRR); Dansville and Mount Morris Railroad Company (DMM); and Rochester & Southern Railroad, Inc. (R&S).

This transaction is related to Finance Docket No. 30958. In that proceeding, L&D has filed a notice of exemption under 49 CFR 1150.31 for acquisition, operation, lease of, and trackage rights over, various line segments of Southern Pacific Transportation Company in Louisiana.

The lines of L&D, GWRR, DMM, and R&S do not connect, and the acquisition of control is not part of a series of anticipated transactions that could lead to a connection. The transaction involves no Class I carriers. Accordingly, acquisition of control of L&D by GWI comes within the class of transactions exempted from the prior approval requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the continuance in control shall be protected pursuant to *New York Dock Ry-Control-Brooklyn Eastern Dist.,* 360 I.C.C. 60 (1979).

Decided: January 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1291 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

---

[1] In two other proceedings under the notice of exemption procedures, Finance Docket No. 30965, involving a trackage rights and lease between Delaware and Hudson Railway and the ST, and in Finance Docket No. 30967, involving a lease between The Maine Central Railroad Company and the ST, the Railway Labor Executives' Association (RLEA) petitioned for the imposition of the labor protective conditions developed by the Commission in *New York Dock Ry.—Control—Brooklyn Eastern District* 360 I.C.C. 60 (1979) in lieu of the *Mendocino* conditions. A Commission decision will follow to consider RLEA's petition.

[Finance Docket No. 30958]

## Louisiana & Delta Railroad, Inc.; Acquisition, Operation, Lease and Trackage Rights; Southern Pacific Transportation Co.; Exemption

Louisiana & Delta Railroad, Inc. (L&D), has filed a notice of exemption for acquisition, operation, and lease of approximately 113.5 route miles of Southern Pacific Transportation Company (SPT) in Louisiana, and trackage rights over an additional 91.7 miles of line of SPT in Louisiana. The lines of SPT that L&D will acquire and operate are:

1. The line from milepost 0.03 at or near Bayou Sale to milepost 4.38 at or near North Bend, including the Garden City Spur between milepost 97.70 and milepost 98.25;

2. The line from milepost 0.0 at or ne Baldwin to milepost 15.25 at or near Cypremort, and between milepost 15.0 at or near Cypremort and milepost 18.8 at or near Weeks;

3. The line from milepost 0.07 at or near Schriever to milepost 14.00 at or near Houma, and between milepost 13.96 and milepost 17.75;

4. The line from milepost 5.35 at or near I&V Junction to milepost 31.06 at c near Kaplan;

5. The line at New Iberia between milepost 126.32 and milepost 130.87;

6. The line from milepost 0.04 at or near Schriever to milepost 15.28; and

7. The line from milepost 0.00 at or near New Iberia to milepost 9.8 at or near Salt Mine, and between milepost 18.00 at or near Davids and milepost 20.50 at or near Pesson.

L&D also will lease (with an option t purchase)[1] and operate SPT's line between milepost 0.0 at or near Raceland Junction and milepost 14.153 at or near Jay.

L&-D will obtain trackage rights over SPT's lines (a) between SP milepost 128.0 near New Iberia and milepost 54.( at or near Thibodaux Junction; (b) between SP mainline milepost 39.5 at o near Raceland Junction and milepost 54.0. at or near Thibodaux Junction. an (c) between milepost 39.5 and milepost 42.7 on the mainline siding at Raceland Junction.

These transactions are related to Finance Docket No. 30958 (Sub-No. 1). I that proceeding, a notice of exemption pursuant to 49 CFR 1180.2(d) has been filed with regard to the continuance in control of L&D by Genesee & Wyoming Industries, Inc.

[1] This notice of exemption will also extend to th prospective purchase of this line by L&D, thus obviating the need for L&D to file a separate notice of exemption in the future covering that transaction.

Comments must be filed with the Commission and served on James B. Gray, Jr., Harter, Secrest & Emery, 700 Midtown Tower, Rochester, NY 14064, telephone (716) 232-6500.

The notice is filed under 49 CFR 1150.31 If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: January 5, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1292 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

---

[Application No. 11]

## Agreement under Section 5a; Michigan Movers & Warehousemen's Association, New Furniture; Agreement Decision

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Revocation of antitrust immunity.

**SUMMARY:** The Commission dismisses, at applicant's request, Michigan Movers & Warehousemen's Association's pending application for approval of its collective ratemaking agreement, and revokes all antitrust immunity for collective activities performed under that agreement.

**EFFECTIVE DATE:** This decision is effective when served.

**FOR FURTHER INFORMATION CONTACT:**

R. Gagnon, (202) 275-7711

or

Louis E. Gitomer, (202) 275-7691

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's full decision. To purchase a copy, contact T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or call toll-free (800) 424-5403, or (202) 289-4357 in the Washington, DC, metropolitan area.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10706 and 10321.

Decided: January 12, 1987.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1340 Filed 1-21-87; 8:45 am]

BILLING CODE 7035-01-M

---

[Docket No. AB-55 (Sub No. 185X)]

## CSX Transportation, Inc.; Exemption; Abandonment in Dinwiddie, Brunswick, and Mechlenburg Counties, VA

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of exemption.

**SUMMARY:** The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., (CSX) of its rail line between McKenney and Meredith, a distance of approximately 31.61 miles, in Dinwiddie, Brunswick, and Mechlenburg County, VA, subject to standard labor protection conditions.

**DATES:** This exemption is effect on February 23, 1987. Petitions to stay must be filed by February 2, 1987, and petitions for reconsideration must be filed by February 11, 1987.

**ADDRESSES:** Send pleadings referring to Docket No. AB-55 (Sub-No. 185X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce, Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area), or toll-free (800) 424-5403.

Decided: January 14, 1987

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley, Commissioner Lambolely dissented with a separate expression.

Noreta R. McGee,

*Secretary.*

[FR Doc. 87-1341 Filed 1-21-87; 845 am]

BILLING CODE 7035-01-M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87-07)]

### NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC), Meeting

**AGENCY: NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.**

"Federal Register" Citation of Previous Announcement: 51FR46959, Notice Number 86-88, December 29, 1986.

Previously announced times and dates of meeting: January 13, 1987, 8:30 a.m. to 4:30 p.m.; January 14, 1987, 8:30 a.m. to 12:30 p.m.

Changes in the meeting: Dates changed to February 5, 1987, 8:30 a.m. to 4:30 p.m.; February 6, 1987, 8:30 a.m. to 12:30 p.m.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. John Smith, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2834.

Dated: January 12, 1987.

**Richard L. Daniels,**

*Advisory Committee Management Officer, National Aeronautics and Space Administration.*

[FR Doc. 87-1285 Filed 1-21-87; 8:45 am]

BILLING CODE 7510-01-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Humanities Panel Meeting

**AGENCY:** National Endowment for the Humanities.

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

**FOR FURTHER INFORMATION CONTACT:** Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322.

**SUPPLEMENTARY INFORMATION:** The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (3) information the disclosure of which would significantly frustrate implementation of proposed agency action, pursuant to authority granted me by the Chairman's Delegation of Authoriy to Close Advisory Committee meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

1. Date: February 5-6, 1987.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Museums and Historical Organizations, submitted to the Division of General Programs, for projects beginning after July 1, 1987.

2. Date: February 5-6, 1987.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Museums and Historical Organizations, submitted to the Division of General Programs, for projects beginning after July 1, 1987.

3. Date: February 9, 1987.
Time: 8:00 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for Museums and Historical Organizations submitted to the Division of General Programs, for projects beginning after July 1, 1987.

4. Date: February 5, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Research Tools, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

5. Date: February 6, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Research Access and Research Tools, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

6. Date: February 9-10, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Research Interpretive, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

7. Date: February 17, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Research Interpretive, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

8. Date: February 19-20, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Research Access, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

9. Date: February 23, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications for Research Interpretive, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

10. Date: February 26-27, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications for Research Tools and Research Access, submitted to the Division of Research Programs, for projects beginning after July 1, 1987.

11. Date: February 20, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 730.
Program: This meeting will review applications for U.S. Newspaper Projects, submitted to the Office of Preservation, for projects beginning after July 1, 1987.

12. Date: February 27, 1987.
Time: 8:30 a.m. to 5:00 p.m.
Room: 430.
Program: This meeting will review applications for preservation projects, submitted to the Office of Preservation, for projects beginning after July 1, 1987.

**Stephen J. McCleary,**

*Advisory Committee, Management Officer.*

[FR Doc. 87-1350 Filed 1-21-87; 8:45 am]

BILLING CODE 7536-01-M

## NATIONAL SCIENCE FOUNDATION

### Advisory Panel for Cellular Physiology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cellular Physiology.

Date and Time: February 2, 3, 4, 1987—8:30 a.m. to 5 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Maryanna P. Henkart, Program Director, Cellular Physiology Program, (202) 357-7377, Room 321, National Science Foundation, Washington, DC 20550.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cellular Physiology.

Agenda: To review and evaluate research proposals and projects as part of the selection process of awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

**M. Rebecca Winkler,**

*Committee Management Officer.*

January 13, 1986.

[FR Doc. 87-1347 Filed 1-21-87; 8:45 am]

BILLING CODE 7555-01-M

## Advisory Panel for Regulatory Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Regulatory Biology

Date and Time: February 4, 5, and 6, 1987, 8:30 a.m. to 5:30 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550

Type of Meeting: Closed

Contact Person: Dr. Stephen Bishop, Program Director, Regulatory Biology Program, Room 332, National Science Foundation, Washington, DC 20550, Telephone 202/357-7975

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

**M. Rebecca Winkler,**

*Committee Management Officer.*

January 13, 1986.

[FR Doc. 87-1348 Filed 1-21-87; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

## Draft Regulatory Guide; Issuance, Availability; Extension of Comment Period

On October 28, 1986 [51 FR 39440], the Nuclear Regulatory Commission pulished a document announcing the availability of a draft of a new guide for public comment. The draft guide, entitled "Containment System Leakage Testing", is temporarily identified by its task number, MS 021-5. On November 20, 1986 [51 FR 42024], the period for submitting comments on this draft guide was extended from December 29, 1986 until January 26, 1987 in order to match the public comment period for the proposed revision to 10 CFR Part 50, Appendix J, "Leakage Rate Testing of Containments of Light-Water-Cooled Nuclear Power Plants".

Due to a concurrent extension of the public comment period on the proposed revision to 10 CFR Part 50, Appendix J, to April 24, 1987, the period for submitting public comments on this draft guide has also been extended to April 24, 1987. Comments or any other correspondence concerning this draft guide should mention the task number. Comments should be sent to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Room 4000 MNBB, Washington, DC 20555.

Dated at Rockville, Maryland, this 14th day of January 1987.

**Guy A. Arlotto,**

*Director, Division of Engineering Safety, Office of Nuclear Regulatory Research.*

[FR Doc. 87-1366 Filed 1-21-87; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

## Japan Supercomputer Trade Practices; Request From Public Comments

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Request for public comments.

**SUMMARY:** Interested persons are invited to submit written comments to the Office of the U.S. Trade Representative on Japanese supercomputer trade practices by February 23, 1987, to assist in its investigation of such practices under section 305 of the Trade Act of 1974.

**FOR FURTHER INFORMATION CONTACT:** Glen S. Fukushima, Director for Japanese Affairs, Office of the U.S. Trade Representative, 600 17th St. NW., Washington, DC 20506, (202) 395-5070.

**SUPPLEMENTARY INFORMATION:** On December 10, 1986, the Office of the U.S. Trade Representative (USTR) announced its initiation of an investigation of Japanese supercompter trade practices under section 305 of the Trade Act of 1974, as amended (19 U.S.C. 2415). The inter-agency investigation will compile and review facts concerning the structure and competitive position of Japan's supercomputer industry; the Government of Japan's supercomputer procurement and research funding practices; Japan's trade practices in the United States and third country markets; and the significance of supercomputer technology to the U.S. economy and national security. The investigation, initiated at the recommendation of the President's Trade Strike Force, is to be conducted simultaneously with consultations between the U.S. and Japanese governments. It is scheduled to be concluded by March 10, 1987.

Interested persons are invited to submit comments in writing on these issues by February 23, 1987. Comments should be filed in accordance with the regulations in 15 CFR 2006.8.

**Alan F. Holmer,**

*General Counsel.*

[FR Doc. 87-1304 Filed 1-21-87; 8:45 am]

BILLING CODE 3190-01-M

## Consultations With Foreign Officials Concerning Trade in Commercial Launch Services and Related Goods; Request for Comments

**AGENCY:** Office of the United States Trade Representative, Executive Office of the President.

**ACTION:** Notice and request for comments by February 23, 1987.

**SUMMARY:** Pursuant to the President's Policy Statement on Commercial Space of August 15, 1986, the United States Government intends to initiate preliminary consultations with the European Space Agency and, as appropriate, with other foreign officials concerning trade in commercial launch services and related goods, to explore issues related to possible negotiation of

international rules in the commercial space launch service sector. The Office of the United States Trade Representative (USTR) invites all interested U.S. parties to provide written comments on the desirability and scope of any such consultations, concessions that should be sought by the United States Government, and any other matters relevant to such consultations. The Office of the USTR particularly invites comments by U.S. providers and potential providers of launch services and related goods concerning the issues listed below.

**FOR FURTHER INFORMATION CONTACT:** J. David Morrissy, Director Capital Goods Trade Policy, or Steven J. Falken, Director for Aerospace and Transportation Trade Policy, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506, Phone: (202) 395-4947.

**SUPPLEMENTARY INFORMATION:** The President's Policy Statement on Commercial Space of August 15, 1986 stated that

> . . . NASA will no longer be in the business of launching private satellites. The private sector, with its ingenuity and cost effectiveness, will be playing an increasingly important role in the American space effort.

The President recognized that, in implementing this policy, adjustments in government policies and practices would be needed to eliminate potential impediments to U.S. development of a private commercial space transportation industry. He also recognized that foreign government-sponsored competition poses a potentially serious problem for an infant U.S. commercial space industry. Accordingly, on September 11, 1986 the President directed the USTR to "initiate consultations with foreign providers of commercial launch services to seek to ensure an equal opportunity for the private U.S. ELV [Expendable Launch Vehicle] industry."

Pursuant to this directive, the USTR has directed the Trade Policy Staff Committee (TPSC) to review trade-related aspects of government policies affecting the provision of launch services and related goods by the U.S. private sector to determine whether negotiation of agreed international rules in this area would serve U.S. interests; and if so, how best to proceed. As part of this review, pursuant to section 135(a) and (j) of the Trade Act of 1974 (19 U.S.C. 2153) and 15 CFR 2003, the TPSC is soliciting written information and comments from all interested U.S. parties on all issues related to such consultations. The TPSC particularly invites U.S. providers of launch services and related goods to comment on the following issues, drawing on their knowledge and experience in the field:

1. Cost components associated with private commercial launch services (e.g., insurance, facilities, ranges, etc.);
2. The extent of external financial and/or other support associated with each such cost component (including support provided by Federal, State and local government);
3. The extent of foreign government financial and/or other support associated with the cost components of foreign providers of launch services and related goods; and
4. The extent to which foreign government support may accord foreign launch services and related good providers unfair competitive advantage.

Comments should identify the commenter and the person, firm, or association that the commenter represents. Business confidential information included in such responses will be exempted from disclosure pursuant to 19 CFR 2003.6. Submissions should indicate clearly the information for which business confidential treatment is requested and why such information should be accorded confidential treatment. A non-confidential summary should be included. In addition, submissions should indicate on the cover page that business confidential information is included and each page subject to a request for confidential treatment must be marked at the top: "BUSINESS CONFIDENTIAL."

Interested parties are invited to submit comments. Written comments should be filed in accordance with the procedures set forth in 15 CFR 2003.2, 2003.5, and 2003.6, and, in not less than 20 copies, should be submitted to the Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 521, 600 Seventeenth Street NW., Washington, DC 20506, by February 23, 1987.

Date: January 20, 1987.

**Donald M. Phillips,**

*Chairman, Trade Policy Staff Committee.*

[FR Doc. 87-1414 Filed 1-21-87; 8:45 am]

BILLING CODE 3190-01-M

## SECURITIES AND EXCHANGE COMMISSION

**[File No. 22-16231]**

### Application and Opportunity for Hearing; Citicorp

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of United States Trust Company of New York (the "Trust Company") under four existing indentures, and two Pooling and Servicing Agreements each dated as of October 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under either of such indentures or the Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures. The Applicant alleges that:

The Trust Company currently is acting as Trustee under four indentures in respect of which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate Notes due 1989; the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes; the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A; and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively Exhibits 4(a), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2-42915, 2-58355, 2-59396 and 2-64862 filed under the

Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. The four indentures are hereinafter called the "Indentures" and the securities issued pursuant to the Indentures are hereinafter called the "Notes."

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On October 28, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of October 1, 1986 (the "1986–O Agreement") with Citibank, N.A., Originator and Servicer, and Citicopr Homeowners, Inc., under which there were issued on October 28, 1986 Mortgage Pass-Through Certificates, Series 1986–O 10.00% Pass-Through Rate (the "Series 1986–O Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–O Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $54,115,407.04 at the close of business on October 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–O Certificates. On October 28, 1986, Applicant, the parent of Citibank, N.A., entered into a guarantly of even date (the "1986–O Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–O Certificates, to be liable for 8.5% of the initial aggregate principal balance of the 1986–O Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–O Guaranty. The 1986–O Guaranty states the Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–O Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–O Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–O Certificates were offered by a Prospectus Supplement dated October 9, 1986, supplemental to a Prospectus dated October 9, 1986. The 1986–O Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On October 28, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of October 1, 1986 (the "1986–P Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on October 28, 1986, Mortgage Pass-Through Certificates, Series 1986–P 9.50% Pass-Through Rate (the "Series 1986–P Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–P Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $123,841,901.11 at the close of business on October 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–P Certificates. On October 28, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986–P Guaranty") pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–P Certificates, to be liable for 6.5% of the initial aggregate principal balance of the 1986–P Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–P Guaranty. The 1986–P Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–P Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–P Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–6358) as part of a delayed or continuous offering of $2,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–P Certificates were offered by a Prospectus Supplemental dated October 10, 1986 supplemental to a Prospectus dated October 9, 1986. The 1986–P Agreement has not been qualified under the Trust Indenture Act of 1939.

The 1986–O Agreement and the 1986–P Agreement are hereinafter called the 1986 Agreements and the 1986–O Guaranty and the 1986–P Guaranty are hereinafter called the 1986 Guarantees.

(5) The obligations of Applicant under the Indentures and the 1986 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986 Guarantees are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and 1986 Agreements.

(6) The Applicant has waived notice of hearing, hearing and any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–16231, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC.

Notice is further given that an interested person may, not later than January 30, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549.

At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 87–1330 Filed 1–21–87; 8:45 am]

BILLING CODE 8010–01–M

## Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142

Upon Written Request Copy Available From: Securities and Exchange Commission Office of Consumer Affairs Washington, DC 20549

**Revision**

*Form D and Regulation D*

[File No. 270–72]

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance proposed revisions to Regulation D (17 CFR 230.501–506) which would increase the

numbers of accredited investors and the number of offerings eligible for exemption, thus increasing the numbers of Forms D required to be filed. The respondents are issuers who elect to offer and sell securities pursuant to section 4(6) of the Securities Act of 1933 ("the 1933 Act") or pursuant to Regulation D under the 1933 Act.

Submit comments to OMB Desk Officer: Mr. Robert Neal, (202) 395-7340, Office of Information and Regulatory Affairs, Commerce and Lands Branch, Room 3228 NEOB Washington, DC 20530.

January 15, 1987.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 87-1372 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

---

**[File No. 1-8812]**

## Issuer Delisting; Application To Withdraw From Listing and Registration; Arley Merchandise Corp. (Units, Consisting of one Share of Common Stock and one Right to Sell Common Stock, and Rights to Sell Common Stock)

January 14, 1987.

Arley Merchandise Corporation ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified securities from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing these securities from listing and registration include the following:

Since the holders of Rights no longer hold any common stock of Arley, there remain no Units outstanding; and since the right, until January 21, 1987, to sell to Arley one share of common stock of Arley for a price of $8.00 is of no value given that all shares of Arley now outstanding are held to ROPS Textiles, Inc., the Rights have been rendered virtually worthless. As a result of this, the management of Arley believes that no purpose is served by the continued listing and registration of its Units and Rights on the Boston Stock Exchange. In addition, the withdrawal of the Units and Rights from listing and registration on the Boston Stock Exchange, along with the withdrawal of its common stock from listing and registration on the American Stock Exchange (which Arley is in the process of effecting), will relieve Arley of the burden and expense of complying with the reporting requirements of section 13, and the proxy requirements of section 14, of the Securities Exchange Act of 1934.

Any interested person may, on or before February 5, 1987, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-1374 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

---

**[Release No. 35-24302]**

## Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Columbia Gas System, Inc. and Arkansas Power and Light Co.

January 15, 1987.

Notice is hereby given that the following filling(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 9, 1987, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

### The Columbia Gas System, Inc. (70-7199)

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, has filed a post-effective amendment to its declaration with this Commission pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

By order dated August 13, 1986 (HCAR No. 24167), Columbia was authorized to issue up to 3 million shares of its common stock ("Common Stock"), $10 par value per share, pursuant to competitive bidding requirements of Rule 50 as modified (HCAR No. 22623, September 2, 1982). On September 3, 1986, Columbia sold 1,250,000 shares of its Common Stock in a competitively bid underwritten offering. Columbia now seeks authority to sell all or a portion of the remaining 1,750,000 shares of Common Stock in continuous "at the market" transactions pursuant to a Sales Agency Agreement with Morgan Stanley & Company, Inc. ("Morgan Stanley") under which Morgan Stanley will act as Columbia's exclusive agent ("Agent") for the purpose of offering and selling the Common Stock by means of ordinary broker's regular-way transactions in the auction market on the floor of the New York Stock Exchange, or any regional exchange on which Columbia's common stock may be listed or admitted to trading or block transactions (which may involve crosses) on such exchanges or on the over-the-counter market in which Morgan Stanley may act as a principal for its own account.

### Arkansas Power & Light Company (70-7346)

Arkansas Power and Light Company ("AP&L"), Capital Tower Building, Capital and Broadway Streets, P.O Box 551, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed an application pursuant to section 6(b) of the Act and Rule 50 thereunder.

AP&L proposes to issue and sell through February 28, 1989, in one or more series, up to $270 million principal amount of its first mortgage bonds with a term of 5 to 30 years and up to $150 million aggregate par value of its cumulative preferred stock of either $25 par value or $100 par value. The bonds

and stock would be offered at competitive bidding in conformity with the alternative procedures set forth in the Commission's Statement of Policy of September 2, 1982 (HCAR No. 22623).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 87-1376 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

---

**[Release No. 34-23983; File No. SR-NYSE-86-36]**

## Self-Regulatory Organizations; Filing and Order Granting Immediate Effectiveness to Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Proposed Increases in Floor Facilities Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 9, 1986, the New York Stock Exchange, Inc. ("Exchange" or "NYSE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is instituting increases in certain Floor Facilities Fees as of January 1, 1987.[1]

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statments concerning the purpose of and the basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] In its filing, the NYSE included a schedule of the proposed rate increases in the various Floor Facilities Fees. A copy of this rate schedule is available from the Commission, at the address noted in Section IV below and from the NYSE.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(1) Purpose

The revenues generated by the Floor Facilities fees increase will be used to defray the expenses of this area. The current Floor Facilities fees do not fully recover the costs of providing the facilities. The estimated loss in 1986 will be approximately $9.1 million dollars. Increases in projected expenses are anticipated because of continuing demands in the area. Even with the proposed rate increase a loss of approximately $8.8 million dollars is expected in 1987. The purpose of the proposed rate increases is to continue the process of recapturing the cost of this activity.

(2) Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that this proposed rule change will not impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

The Exchange has not solicited, and does not intend to solicit, comments regarding this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

*III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action*

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and Subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20459. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by [February 12, 1987].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 12, 1987.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-1375 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

---

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

January 14, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Carteret Savings Bank FA
Common Stock, $.01 Par Value (File No. 7-9560)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 5, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the

Securities and Exchange Commission, Washington, DC. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-1378 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

## Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

January 14, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Bowater Incorporated
Common Stock, $1.00 Par Value (File No. 7-9556)
Circuit City Stores, Inc.
Common Stock, $1.00 Par Value (File No. 7-9557)
The Clorox Company
Common Stock, $1.00 Par Value (File No. 7-9558)
NV Homes L.P.
Units of Limited Partnership Interests (File No. 7-9559)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before February 5, 1987, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-1379 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

**[Release No. IC-15540; 811-3624]**

## Application; Pruco Life Series Fund, Inc.

January 14, 1987.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of application for order under the Investment Compacy Act of 1940 (the "1940 Act").

*Applicant:* Pruco Life Series Fund, Inc. (the "Fund")

*Relevant 1940 Act Sections:* Order requested under section 8(f).

*Summary of Application:* Applicant requests an order declaring that it has ceased to be an investment company.

*Filing Date:* December 3, 1986.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on February 9, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESS:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 3003 North Central Avenue, Phoenix, Arizona 85012.

**FOR FURTHER INFORMATION CONTACT:** Staff Attorney David S. Goldstein (202) 272-2622 (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

### Applicant's Representations

1. The securities issued by the Fund were registered under the Securities Act of 1933 by Reg. No. 2-80929, which was originally filed December 16, 1982, and which became effective on May 24, 1983.

2. The initial public offering commenced on June 2, 1983, and the Fund registered an indefinite amount of securities pursuant to Rule 24f-2.

3. The shares of the Fund consisted of eight classes of common stock each of which was preferred over all other classes in respect of the assets held in a specific designated portfolio. The eight portfolios were: A Money Market Portfolio, a Bond Portfolio, a Common Stock Portfolio, an Aggressively Managed Flexible Portfolio, a Conservatively Managed Flexible Portfolio, Zero Coupon Bond Portfolio 1990, Zero Coupon Bond Portfolio 1995, and Zero Coupon Bond Portfolio 2000.

4. The Fund was a Maryland Corporation organized on November 15, 1982. On October 31, 1986, the Fund was merged into The Prudential Series Fund, Inc. ("Prudential Fund"). Articles of Merger were filed with and accepted by the State of Maryland, and following the merger on October 31, 1986, the separate existence of the Fund ceased, except as it may be continued by operation of Maryland law.

5. The Fund retains no assets; Prudential Fund assumed all debts and liabilities of the Fund, and the Fund is not a party to any litigation or administrative proceeding.

6. The Fund has no securityholders and does not engage or propose to engage in any business activity other than those necessary for it to wind up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 87-1377 Filed 1-21-87; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[License No. 02/02-5495]**

## Jardine Capital Corp.; Issuance of a Small Business Investment Company License

On August 6, 1986, a notice was published in the **Federal Register** (51 FR 28289) stating that an application has been filed by Jardine Capital Corporation, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business September 6, 1986, to

submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended (the Act), after having considered the application and all other pertinent information, SBA issued License No. 02/02-5495 on December 22, 1986, to Jardine Capital Corporation to operate as a small business investment company under section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: January 12, 1987.

**Robert G. Lineberry,**

*Deputy Associate Administrator for Investment.*

[FR Doc. 87-1319 Filed 1-21-87; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Environmental Impact Statement; Spokane County, WA

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for proposed improvements to Interstate 90 between Four Lakes Interchange (Milepost 270) to the Idaho State Line (Milepost 300).

**FOR FURTHER INFORMATION CONTACT:** Paul C. Gregson, Division Administrator, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone (206) 753-9413. Clyde L. Slemmer, P.E., Project Development Engineer, Washington State Department of Transportation, Transportation Building, Olympia, Washington 98504, Telephone (206) 753-6135.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Washington State Department of Transportation, will prepare an EIS on a proposal to improve traffic flow and safety on Interstate 90. These proposed projects are located from Four Lakes Interchange (Milepost 270) to the Idaho State Line (Milepost 300).

The oldest sections in the project area are about 30 years of age. Most of the facility will be in need of major repair during the next 20 years. Also, the 1950s and 1960s designs of certain roadway sections, bridges, and ramps do not meet current design standards and will require modification.

Traffic in the Spokane area has increased by about five percent almost every year since the facility was completed. This trend is expected to continue because of predicted population growth and other factors. If no action is taken, there will be an increase in congestion and motorist frustration. The accident rate is also predicted to rise as marginal designs become more critical.

Increased traffic and congestion will have negative environmental effects if no action is taken. Some parts of the project area are already experiencing high noise levels. This problem is expected to become worse, both in terms of intensity and duration.

Air quality may also be adversely affected. This is because gasoline engines operate more efficiently at higher speeds. Portions of Spokane County are currently designated as nonattainment for carbon monoxide by the U.S. Environmental Protection Agency.

Alternatives under consideration include:

1. Taking no action.
2. Transportation system management. The most efficient use of existing facilities will be examined. The department will also consider regional possibilities for increasing the use of bicycles, busses, HOV lanes, light rail transit, and ridesharing.
3. Improving the existing facility. This will include modifying existing interchanges, building new interchanges, and adding additional lanes in some locations.

Additional alternatives involving varying mixes of the above strategies may be developed later.

Descriptions of the proposed action will be sent to appropriate federal, state, and local agencies. Private organizations and citizens who have previously expressed interest in this proposal will also be contacted.

A series of public open house meetings have been tentatively scheduled for February 1987. In addition, a public hearing will be held. The time and place of these will be advertised by public notice. Newsletters and coordination with the news media will supplement these activities.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of federal programs and activities apply to this program)

Issued on: January 13, 1987.

**David W. Hawley,**

*Area Engineer, Washington Division, Olympia, WA.*

[FR Doc. 87-1320 Filed 1-21-87; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Public Information Collection Requirements Submitted to OMB for Review

Dated: January 14, 1987.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue NW., Washington, DC 20220.

**Internal Revenue Service**

*OMB Number:* 1545-0720.

*Form Number:* IRS Forms 8038 and 8038-G.

*Type of Review:* Resubmission.

*Title:* A-Information Return for Tax-Exempt Private Activity Bond Issues (8038); and B-Information Return for Tax-Exempt Government Bond Issues (8038-G).

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

**Douglas J. Colley,**

*Departmental Reports Management Office.*

[FR Doc. 87-1312 Filed 1-21-87; 8:45 am]

BILLING CODE 4810-25-M

### Public Information Collection Requirements Submitted to OMB for Review

January 14, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under

the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC. 20220.

**Internal Revenue Service**

*OMB Number:* 1545-0226.
*Form Number:* IRS Form 6249.
*Type of Review:* Extension.
*Title:* Computation of Overpaid Windfall Profit Tax.

*OMB Number:* 1545-0798.
*Form Number:* None.
*Type of Review:* Extension.
*Title:* 26 CFR 31.6001-1 *Records in General;* 26 CFR 31.6001-2 *Additional Records Under FICA;* 26 CFR 31.6001-3 *Additional Records Under Railroad Retirement Tax Act;* 26 CFR 31.6001-5 *Additional Records in Connection with Collection of Income Tax at Source on Wages;* 26 CFR 31.6001-6 *Notice by District Director Requiring Returns, Statements, or the Keeping of Records.*

Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

**Bureau of Alcohol, Tobacco and Firearms**

*OMB Number:* 1512-0078.
*Form Number:* ATF F 1533 (5000.18).
*Type of Review:* Extension.
*Title:* Consent of Surety.

*OMB Number:* 1512-0095.
*Form Number:* ATF F 5530.5 (1678).
*Type of Review:* Extension.
*Title:* Formula and Process for Nonbeverage Products.

*OMB Number:* 1512-0198.
*Form Number:* ATF REC 5110/03-ATF F 5110.28.
*Type of Review:* Extension.
*Title:* Distilled Spirits Plant (DSP) Processing Records and Report.

*OMB Number:* 1512-0369.
*Form Number:* ATF REC 5300/1.
*Type of Review:* Extension.
*Title:* Licensed Firearms Manufacturers Records of Production, Disposition and Supporting Data.

OMB Number: 1512-0372.
*Form Number:* ATF REC 5400/2.
*Type of Review:* Extension.
Title: Records and Supporting Data: Daily Summaries, Records of Production, Storage, and Disposition, and Supporting Data by—Licensed Explosives Manufacturers and Manufacturers (Limited).

Clearance Officer: Robert G. Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

**Douglas J. Colley,**
*Departmental Reports Management Office.*
[FR Doc. 87-1313 Filed 1-21-87; 8:45 am]
BILLING CODE 4810-25-M

## Public Information Collection Requirements Submitted to OMB for Review

DATED: January 15, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

**Internal Revenue Service**

*OMB Number:* 1545-0923
*Form Number:* None
*Type of Review:* Extension
*Title:* LR-31-85: Final Regulations Tax-Exempt Entity Leasing
Clearance Officer: Garrick Shear (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC. 20224
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

**Bureau of Alcohol, Tobacco and Firearms**

*OMB Number:* 1512-0116
*Form Number:* ATF F 2145(5200.11)
*Tye of Review:* Revision
*Title:* Notice of Release/Return of Tobacco Products, Cigarette Papers and Tubes
Clearance Officer: Robert G. Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

**Douglas J. Colley,**
*Departmental Reports Management Office.*
[FR Doc. 87-7380 Filed 1-21-87; 8:45 am]
BILLING CODE 4810-25-M

# Sunshine Act Meetings

Federal Register
Vol. 52, No. 14
Thursday, January 22, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

**COPYRIGHT ROYALTY TRIBUNAL**

**TIME AND DATE:** February 2, 1987, 10:00 a.m.

**PLACE:** 1111 20th Street, NW., Suite 450, Washington, DC 20036.

**STATUS:** Closed pursuant to a vote taken January 12, 1987.

**MATTERS TO BE CONSIDERED:** Adjudication of the 1984 cable distribution procedding.

**CONTACT PERSON FOR MORE INFORMATION:** Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., Suite 450 Washington, DC 20036, 202-653-5175.

Dated: January 16, 1987.

J. C. Argetsinger,

*Chairman.*

### Certification of Closed Meeting

The General Counsel of the Copyright Royalty Tribunal hereby certifies, pursuant to 5 U.S.C. 552b(f)(1), and pursuant to § 301.14(b) of the Tribunal's rules, 37 CFR 301.14(b), that the Tribunal's deliberations concerning the hearing of the 1984 cable distribution proceedings scheduled to occur on February 2, 1987 (and from time to time thereafter up to 30 days as the Tribunal may, pursuant to 37 CFR 301.14(a), find appropriate) may properly be closed to public observation.

The relevant exemptions on which this certification is based are set forth in the following provisions of law:

5 U.S.C. 552b(c)(10) (adjudication)
37 CFR 301.13(i) (adjudication)

The recorded vote of each Commissioner taken January 12, 1987 on the question of a closed meeting is as follows:

Chairman J.C. Argetsinger—Yes
Commissioner Edward W. Ray—Yes
Commissioner Mario F. Aguero—Yes

It is anticipated that, in addition to the Commissioners of the Tribunal, the General Counsel and each of the Commissioners' confidential assistants will attend the Tribunal's deliberations.

Dated: January 16, 1987.

**Robert Cassler,**

*General Counsel.*

[FR Doc. 87-1529 Filed 1-20-87; 3:32 p.m.]

BILLING CODE 1410-09-M

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:34 p.m. on Wednesday, January 14, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Accept the bid submitted by the First National Bank of Maysville, Maysville, Oklahoma, for the purchase of certain assets of and the assumption of the liability to pay deposits made in the First National Bank of Rush Springs, Rush Springs, Oklahoma, which was expected to be closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency on Thursday, January 15, 1987; (2) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B)(1) Accept the bid submitted by Century Bank and Trust, Denver, Colorado, an insured State nonmember bank, for the purchase of certain assets of and the assumption of the liability to pay deposits made in First Charter Bank, Denver, Colorado, which was expected to be closed by the State Bank Commissioner for the State of Colorado on Thursday, January 14, 1987; (2) approve the application of Century Bank and Trust, Denver, Colorado, for consent to purchase certain assets of and assume the liability to pay deposits made in First Charter Bank, Denver, Colorado, and for consent to establishing the sole office of First Charter Bank as a detached facility of Century Bank and Trust; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(C)(1) Accept the bid submitted by American Exchange Bank, Collinsville, Oklahoma, an insured State nonmember bank, for the purchase of certain assets of and the assumption of the liability to pay deposits made in the First National Bank of Skiatook, Skiatook, Oklahoma, which was expected to be closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency on Thursday, January 15, 1987; (2) approve the application of American Exchange Bank, Collinsville, Oklahoma, for consent to purchase certain assets and assume the liability to pay deposits made in the First National Bank of Skiatook, Skiatook, Oklahoma, and for consent to establish the sole office of the First National Bank of Skiatook as a branch of American Exchange Bank; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(D)(1) Accept the highest acceptable bid which may be submitted in accordance with the "Instructions for Bidding" for the purchase of assets of and the assumption of the liability to pay deposits made in Latimer Bank & Trust, Latimer, Iowa, which was expected to be closed by the Superintendent of Banking for the State of Iowa on Thursday, January 14, 1987, or (2) in the event no acceptable bid for a purchase and assumption transaction is submitted, accept the highest acceptable bid for an insured deposit transfer transaction which may be submitted, or (3) in the event no acceptable bid for either type of transaction is submitted, make funds available for the payment of the insured deposits of the closed bank.

At that same meeting, the Board of Directors also considered personnel matters.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 16, 1987.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 87-1446 Filed 1-20-87 11:27 am]

BILLING CODE 6714-01-M

**FEDERAL ELECTION COMMISSION**

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Tuesday, January 13, 1987, 10:00 a.m. This closed meeting was postponed to

Thursday, January 15, 1987, immediately following close of open session.

* * * * *

**DATE AND TIME:** Tuesday, January 27, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

**DATE AND TIME:** Thursday, January 29, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:**

Setting of dates for future meetings.
Correction and approval of minutes.
Final Audit Report—The Mondale/Ferraro Committee, Inc.
Routine administrative matters.

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Information Officer, 202–376–3155.

**Marjorie W. Emmons,**

*Secretary of the Commission.*

[FR Doc. 87–1527 Filed 1–20–87; 3:30 pm]

BILLING CODE 6715–01–M

---

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

January 15, 1987.

**TIME AND DATE:** 10:00 a.m., Thursday, January 22, 1987.

**PLACE:** Room 600, 1730 K Street, NW., Washington, DC.

**STATUS:** Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

**MATTERS TO BE CONSIDERED:** In addition to the previously announced item, the Commission will consider and act upon the following:

2. Secretary of Labor on behalf of Joseph Delisio Jr., v. Mathies Coal Company, Docket No. PENN 86–83–D. (Consideration of motion for clarification of judge's order.)

It was determined by a unanimous vote of Commissioners that this item be considered in a closed meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653–5629.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 87–1468 Filed 1–20–87; 2:15 pm]

BILLING CODE 6735–01–M

---

**FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

January 15, 1987.

**TIME AND DATE:** 10:00 a.m., Thursday, January 29, 1987.

**PLACE:** Room 600, 1730 K Street, NW., Washington, DC.

**STATUS:** Open.

**CHANGE TO PREVIOUSLY ANNOUNCED ITEM:** The meeting previously announced for this date and time—Youghiogheny & Ohio Coal Co., LAKE 84–98—is cancelled.

**CONTACT PERSON FOR MORE INFORMATION:** Jean Ellen, (202) 653–5629.

**Jean H. Ellen,**

*Agenda Clerk.*

[FR Doc. 87–1369 Filed 1–20–87 2:15 pm]

BILLING CODE 6735–01–M

---

**FEDERAL RESERVE SYSTEM**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** January 14, 1987, 51 FR 1581.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING:** 11:00 a.m., Tuesday, January 20, 1987.

**CHANGES IN THE MEETING:** Addition of the following closed item(s) to the meeting:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing and Urban Affairs regarding current legislative issued affecting financial institutions.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: January 20, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87–1528 Filed 1–20–87; 3:31 pm]

BILLING CODE 6210–01–M

---

**FEDERAL RESERVE SYSTEM**

**TIME AND DATE:** 11:00 a.m., Monday, January 26, 1987.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a perviously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m., two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 16, 1987.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 87–1384 Filed 1–16–87; 4:42 pm]

BILLING CODE 6210–01–M

---

**INTERNATIONAL TRADE COMMISSION**

**TIME AND DATE:** Wednesday, January 28, 1987 at 9:30 a.m.

**PLACE:** Room 117, 701 E Street, NW., Washington, DC 20436.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda
2. Minutes
3. Ratifications
4. Petitions and Complaints:
   Certain hard sided molded luggage cases (Docket Number 1370).
5. Any items left over from previous agenda: none.

**CONTACT PERSON FOR MORE INFORMATION:** Kenneth R. Mason, Secretary, (202) 523–0161.

**Kenneth R. Mason,**

*Secretary.*

January 15, 1987.

[FR Doc. 87–1386 Filed 1–16–87; 4:59 pm]

BILLING CODE 7020–02–M

---

**LEGAL SERVICES CORPORATION**

**TIME AND DATE:** The meeting of the Provisions for the Delivery of Legal services Committee will commence at 9:00 a.m., Thursday, January 29, 1987, and continue until all official business is completed.

**PLACE:** Hotel Washington, Washington Room, 515 15th Street, NW. Washington, DC 20004.

**STATUS OF MEETING:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of Agenda
2. Approval of Minutes—November 1, 1986
3. CALR Report
4. Law School Civil Clinical Project Report
5. Migrant Study
6. Public Comment

**CONTACT PERSON FOR MORE INFORMATION:** Timothy H. Baker, Executive Office, (202) 863–1839.

Date Issued: January 20, 1987.

**Timothy H. Baker,**

*Secretary.*

[FR Doc. 87–1507 Filed 1–20–87; 2:45 pm]

BILLING CODE 6820–35–M

**LEGAL SERVICES CORPORATION**

**TIME AND DATE:** The meeting of the Audit and Appropriations Committee will commence at 1:00 p.m., Thursday, January 29, 1987, and continue until all official business is completed.

**PLACE:** Hotel Washington, Washington Room, 515 15th Street, NW. Washington, DC 20004.

**STATUS OF MEETING:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of Agenda
2. Approval of Minutes
   —November 1, 1986
3. Presentation of the Corporation's Annual Audit Report
4. FY 1986 Final Budget Review
5. Allocation of FY 1986 Carryover Funds
6. FY 1988 Budget Request
7. Public Comment

**CONTACT PERSON FOR MORE INFORMATION:** Timothy H. Baker, Executive Office, (202) 863–1839.

Date Issued: January 20, 1987.

**Timothy H. Baker,**

*Secretary.*

[FR Doc. 87–1508 Filed 1–20–87; 2:45 pm]

BILLING CODE 6820–35–M

---

**LEGAL SERVICES CORPORATION**

**TIME AND DATE:** The meeting of the Operations and Regulations Committee will commence at 9:00 a.m., Friday, January 30, 1987, and continue until all official business is completed.

**PLACE:** Hotel Washington, Washington Room, 515 15th Street, NW., Washington, DC 20004.

**STATUS OF MEETING:** Open.

**MATTERS TO BE CONSIDERED:**

1. Approval of Agenda
2. Approval of Minutes
   —December 15, 1986
3. 45 CFR Part 1612—The Lobbying Regulation
   —Public Comment
   —Recommendations to the Board

**CONTACT PERSON FOR MORE INFORMATION:** Timothy H. Baker, Executive Office, (202) 863–1839.

Date issued: January 20, 1987.

**Timothy H. Baker,**

*Secretary.*

[FR Doc. 87–1509 Filed 1–20–87; 2:45 pm]

BILLING CODE 6820–35–M

---

**LEGAL SERVICES CORPORATION**

**TIME AND DATE:** The meeting of the Board of Directors will commence at 1:00 p.m., Friday, January 30, 1987, and continue until all official business is completed.

**PLACE:** Hotel Washington, Washington Room, 515 15th Street, NW., Washington, DC 20004.

**STATUS OF MEETING:** Open [A portion of the meeting is to be closed to discuss personnel, personal, litigation, and investigatory matters under The Government in the Sunshine Act [5 U.S.C. 552b(c)(2), (6), (7), (9)(B), and (10)] and 45 CFR 1622.5(a), (e), (f), (g), and (h)].

**MATTERS TO BE CONSIDERED:**

1. Approval of Agenda
2. Approval of Minutes
   —January 9, 1987
3. Report and Recommendations from the Provisions for the Delivery of Legal Services Committee
   —CALR Report
   —Law School Civil Clinical Project Report
   —Migrant Study
4. Discussion and Action on the Recommendations of the Audit and Appropriations Committee
   —Corporation's Annual Audit
   —FY 1986 Final Budget Review
   —Allocation of the FY 1986 Carryover Funds
   —FY 1988 Budget Request
5. Discussion and Action on the Recommendations of the Operations and Regulations Committee
   —45 CFR Part 1612—The Lobbying Regulation
6. Public Comment.
7. Personnel and Personal Matters (closed)
8. Litigation and Investigation Matters (closed)

**CONTACT PERSON FOR MORE INFORMATION:** Timothy H. Baker, Executive Office, (202) 863–1839.

Date issued: January 20, 1987.

**Timothy H. Baker,**

*Secretary.*

[FR Doc. 87–1510 Filed 1–20–87; 2:45 pm]

BILLING CODE 6820–35–M

---

**NATIONAL COUNCIL ON THE HANDICAPPED**

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcomng meeting of the National Council on the Handicapped. This notice also describes the functions of the Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (Pub. L. 94–409).

**DATES:**

Feb. 1, 1987, 1:30 p.m. to 6:00 p.m.
Feb. 2, 1987, 9:30 a.m. to 5:00 p.m.
Feb. 3, 1987, 9:00 a.m. to 5:00 p.m.
Feb. 4, 1987, 8:30 a.m. to 4:30 p.m.

**LOCATION:** Miami, Florida, Hyatt Regency Hotel.

**FOR FURTHER INFORMATION CONTACT:** Andrea Farbman, National Council on the Handicapped, 800 Independence Avenue, SW., Washington, DC 20591, (202) 267–3846, TDD: (202) 267–3232.

The National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. 95–602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. 98–221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR).

The meeting of the Council shall be open to the Public. The proposed agenda includes:

Reports from Chairperson and Executive Director
Forum:
  "Concerns of Political and Economic Refugees with Disabilities"
  "Problems of Elderly Persons with Disabilities"
  "Roundtable of Employers" and "Presentation of Harris Poll II"
Legislative Update
Reports from the Research, Adult Service, Children's Services, and Public Affairs Committees
NCH's discussion of unfinished and new business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on the Handicapped.

Signed at Washington, DC, on January 15, 1987.

**Lex Frieden,**

*Executive Director.*

[FR Doc. 87–1470 Filed 1–20–87; 2:16 pm]

BILLING CODE 9539–39–M

---

**POSTAL SERVICE**

**"FEDERAL REGISTER": CITATION OF PREVIOUS ANNOUNCEMENT:** 52 FR 1274, January 12, 1987.

**PREVIOUSLY ANNOUNCED DATE OF MEETING:** February 2, 1987.

**CHANGE:** Addition of the following agenda items:

1. Capital Investments:
   a. Integrated Retail Terminals (IRT)
   b. Conversion of single-line OCRs to multiline.

**AUTHORITY:** By telephone vote on January 16 and 20, 1987, the Board determined that pursuant to section 552b(c))(9)(B) of Title 5, United States Code, and § 7.3(i) of Title 19, Code of Federal Regulations, discussion of these matters is exempt from the open meeting requirements of the Government in the Sunshine Act because it is likely to disclose information, the premature disclosure of which would likely significantly frustrate implementation of proposed actions of the Board.

In accordance with section 552b(f)(1) of Title 5, United States Code and § 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel has certified that in his opinion the additional agenda items of the meeting may properly be closed to the public for the reasons cited above.

**CONTACT PERSON FOR MORE INFORMATION:** David F. Harris, (202) 268–4800.

**David F. Harris,**

*Secretary.*

[FR Doc. 87–1522 Filed 1–20–87; 3:07 pm]

BILLING CODE 7710-12-M

Federal Register

Thursday
January 22, 1987

Part II

# Environmental Protection Agency

40 CFR Part 421

**Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards; Proposed Rule**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 421**

**[OW-FRL-3098-5]**

## Nonferrous Metals Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing amendments to the regulation which limits effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works by existing and new sources that conduct primary tungsten operations. EPA agreed to propose this amendment in a settlement agreement which resolved the one lawsuit challenging the final nonferrous metals manufacturing phase I regulation for this subcategory. The regulation was promulgated by EPA on March 8, 1984, 49 FR 8742.

The proposed amendments include: (1) Certain modifications of the effluent limitations for "best practicable technology" (BPT), "best available technology economically achievable" (BAT), and "new source performance standards" (NSPS) for direct dischargers; and (2) certain modifications to the pretreatment standards for new and existing indirect dischargers (PSNS and PSES). After considering comments received in response to this proposal, EPA will promulgate a final rule.

**DATE:** Comments on this proposal must be submitted on or before February 23, 1987.

**ADDRESS:** Send comments to Ms. Eleanor J. Zimmerman, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Attention: ITD Docket Clerk, Proposed Nonferrous Metals Manufacturing Phase I Rule (WH-552).

The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) (EPA Library) 401 M Street, SW., Washington, DC. The EPA information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this notice may be addressed to Ms. Eleanor Zimmerman at (202) 382-7126.

**SUPPLEMENTARY INFORMATION:** Organization of this notice:

I. Legal authority
II. Background
  A. Rulemaking and Settlement Agreement
  B. Effect of the Settlement Agreement for Primary Tungsten
III. Proposed Amendments to the Nonferrous Metals Manufacturing Phase I Regulation
IV. Environmental Impact of the Proposed Amendments to the Nonferrous Metals Manufacturing Phase I Regulation
V. Economic Impact of the Proposed Amendments
VI. Solicitation of Comments
VII. Executive Order 12291
VIII. Regulatory Flexibility Analysis
IX. OMB Review
X. List of Subjects in 40 CFR Part 421

### I. Legal Authority

The regulation described in this notice is proposed under authority of sections 301, 304, 306, 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 et seq., as amended by the Clean Water Act of 1977, Pub. L. 95-217).

### II. Background

*A. Rulemaking and Settlement Agreement*

On February 17, 1983, EPA proposed a regulation to establish Best Practicable Control Technology Currently Available (BPT), Best Available Technology Economically Achievable (BAT), and Best Conventional Pollutant Control Technology (BCT) effluent limitations guidelines and New Source Performance Standards (NSPS), Pretreatment Standards for Existing Sources (PSES), and Pretreatment Standards for New Sources (PSNS) for the nonferrous metals manufacturing phase I point source category (48 FR 7032). EPA published the final nonferrous metals manufacturing phase I regulation on March 8, 1984 (49 FR 8742). Those regulations affected 80 direct dischargers and 85 indirect dischargers. The preambles to the proposed and final nonferrous metals manufacturing phase I regulation described the history of the rulemaking.

After publication of the nonferrous metals manufacturing phase I regulation, the Aluminum Association, Inc., Kaiser Aluminum and Chemical Corp., Reynolds Metals Company, the Aluminum Recycling Association, the American Mining Congress, Kennecott, Amax, St. Joe Minerals, ASARCO Inc., Mallinckrodt, Inc., NRC Inc., and the Secondary Lead Smelters Association filed petitions to review the regulation. These challenges were consolidated into one lawsuit by the United States Court of Appeals for the Fourth Circuit (*Kennecott* v. *EPA*, 4th Cir. No. 84-1288 and Consolidated Cases). On December 26, 1985 the Fourth Circuit denied petitions to review the regulations for the primary lead, primary zinc, primary copper, metallurgical acid plants, secondary lead and the columbium-tantalum subcategories (780 F. 2d 445). The Supreme Court denied two petitions for a writ of certiorari on October 7, 1986.

Earlier in November of 1985 four aluminum parties in the consolidated lawsuits entered into two settlement agreements which resolved issues raised by the petitioners related to the primary aluminum and secondary aluminum regulations. In accordance with the Settlement Agreements, EPA published a notice of proposed rulemaking on May 20, 1986 and solicited comments regarding certain amendments to the final nonferrous metals manufacturing phase I regulation for these subcategories (50 FR 18530). EPA is in the process of reviewing the comments in preparation for issuance of a final rule.

Similarly, EPA entered into another agreement on June 26, 1986 with AMAX, Inc. and intervenor GTE Products Corp., two petitioners affected by the regulations for the Primary Tungsten Subcategory.

*B. Effect of the Settlement Agreement for Primary Tungsten*

As part of this latest Settlement Agreement, on June 26, 1986 the parties jointly requested the United States Court of Appeals for the Fourth Circuit to stay the effectiveness of those portions of 40 CFR Part 421 which EPA is proposing to amend, pending final action by EPA on the proposed amendments. The Court granted this request on July 9, 1986.

Copies of the Settlement Agreement have been sent to all EPA Regional Offices and to applicable State permit-issuing authorities. All limitations and standards contained in the final nonferrous metals manufacturing phase I regulation published on March 8, 1984 which are not specifically listed in the attached proposed regulation are not affected by today's rulemaking.

### III. Proposed Amendments to the Nonferrous Metals Manufacturing Phase I Regulation

Below are descriptions of the proposed amendments to the nonferrous metals manufacturing phase I regulation. The proposed amendments are based upon proper operation of the same technologies as those which formed the basis of the final regulation that was

promulgated on March 8, 1984. See the preamble to the regulation at 49 *FR* 8742, for the Agency's findings with respect to these technologies.

*A. Subpart J—Primary Tungsten Subcategory*

1. Treatment Effectiveness Concentration for Ammonia Steam Stripping of High Sulfate Wastewater

EPA is proposing amendments to the BPT and BAT limitations and NSPS, PSES and PSNS for ammonia in § 421.102(d), 421.103(d), 421.104(d), 421.105(d), and 421.106(d), when ammonia is treated under a specific set of circumstances. EPA promulgated treatment effectiveness concentration values for ammonia steam stripping that applied regardless of the composition of the influent being treated (49 FR 8812, March 8, 1984). The petitioners indicated that although they could meet these values for most of their streams, the wastestream from the ion-exchange raffinate process step could not be treated to this level because it contains unusually high concentrations of sulfates. Sulfates at such high concentrations, they stated, could interfere with steam stripping performance by plugging the stripper column.

As part of the settlement, EPA is proposing to suspend, under limited circumstances, the ammonia treatment effectiveness concentration value for the ion-exchange raffinate building block. These circumstances are: (a) Where influent (called "mother liquor") to or effluent (called "raffinate") from this process contains sulfates at concentrations exceeding 1000 ppm ("high sulfate influent or effluent"); (b) where the high sulfate influent or effluent is treated by ammonia steam stripping; and (c) where this high sulfate raffinate or mother liquor is not commingled with other wastestreams before treatment for steam stripping for ammonia removal.

In the event a plant satisfies these conditions, mass limitations would be established on a Best Professional Judgment ("BPJ") basis by a permit writer pursuant to 40 CFR 125.3(c) (2) and (3) using the regulatory flows used as the basis for the promulgated effluent limitation guidelines and standards established in this proceeding and treatment effectiveness concentration values determined by the permit writer.

EPA is proposing this action because of engineering concerns that the treatment effectiveness concentrations for ammonia may not be achievable for these high sulfate wastestreams in this subcategory. This is because sulfates (particularly calcium sulfate) at this concentration could interfere with the ammonia steam stripper by plugging the column. This could necessitate more frequent column cleaning and downtime than the Agency anticipated in promulgating the rule, and prevent achieving the concentration values.

EPA lacks operating data on ammonia steam stripping of wastewater where sulfate concentrations exceed 700 ppm, and has been informed in the phase II nonferrous manufacturing rulemaking that sulfate plugging problems would interfere with steam stripper performance should sulfate concentrations exceed 1000 ppm. (Comments of Teledyne Wah Chang, Sept. 28, 1984, pg. 5). Petitioners in the phase I primary tungsten litigation made the same points to the Agency. Thus, at least on an interim basis, EPA believes that 1000 ppm sulfates is a reasonable level to differentiate high sulfate and low sulfate streams.

The only building block in the primary tungsten subcategory that contains these high sulfate concentrations is ion exchange raffinate. Thus, today's proposal is limited to that building block. In addition, since uncommingling this stream would dilute sulfates to levels which do not interfere with steam stripper performance, EPA is proposing to suspend the ammonia concentration value only for commingled ion-exchange raffinate wastewater.

Due to the absence of ammonia treatment data under these conditions, EPA is unable to propose an alternative concentration for ammonia at this time. Tungsten industry petitioners expressed their belief to the Agency that they could achieve a one-day maximum of 351.8 mg/1 and a monthly average of 154.7 mg/1 under these conditions. Based on these representations, this should be the outer bound of any BPJ limitation.

As part of the settlement agreement, the petitioners agreed that any of their primary tungsten facilities treating the ion-exchange raffinate wastestream or mother liquor to the ion-exchange process under these conditions will provide the Agency with one year of operating data (daily observations), beginning from the time the steam stripper is in full-scale, steady state operation. These data shall include at a minimum: (a) Sulfate and ammonia concentrations and pH levels in the feed to, and effluent from, the steam stripper unit; (b) the sulfate and ammonia concentrations and pH levels in the effluent from the ion exchange process if the mother liquor is being treated and not the raffinate; (c) the total suspended solids concentrations in the feed to and the effluent from the steam stripper unit; (d) the wastewater feed rate to the steam stripper unit; (e) the steam rate of the steam stripper unit (pounds of process steam/gallon of wastewater processed); (f) steam flux through the column (pounds of steam on column only per gallon of feed), (g) steam stripper unit back pressure in the various column sections, and (h) date and time of operation including dates and times for disruption of operation for cleaning or repair. These companies will also monitor for total dissolved solids in the feed to and effluent from the steam stripper unit once a week for the first month and monthly thereafter for the following five months, and submit the data to EPA. If these companies elect to treat high sulfate mother liquor, they agreed that treatment effectiveness concentrations from such treatment can be applied when determining the ammonia mass allowance for the ion exchange raffinate building block.

The Agency notes that today's proposal is limited to situations where sulfates are present in high concentrations. The Agency is not proposing action for situations where other compounds (for instance phosphates, carbonates, or chlorides) are present.

2. Regulatory Flows for the Alkali Leach Condensate Building Block

EPA is proposing to add a new building block for this process. This building block was omitted in the promulgated rule because the Agency believed this condensate would be accounted for through other building blocks, primarily the raffinate building block. The petitioners indicated that the flow allowance for the raffinate building block does not represent long-term performance and as such is inadequate because alkali leach condensate is a discrete process stream. Today's proposal would regulate the same pollutants regulated in other primary tungsten building blocks. The flow basis for the proposal is the flow at the sole plant with this unit operation.

3. Change in Production Normalizing Parameter ("PNP")

EPA is proposing to modify the production basis for determining the amount of pollutant which may be discharged to the amount of the element tungsten produced or processed. In the final regulation, EPA used the chemical salt form of tungsten which was believed appropriate for the processing step or building block being regulated. However, the petitioners stated that the chemical formulas were incorrect and confusing. Using the element tungsten

produced or processed as a PNP rather than a chemical compound makes the production basis clear and unambiguous. This proposed change will affect all of the building blocks except for § 421.102(i) through (k), 421.103(i) through (k), 421.104(i) through (k), 421.105(i) through (k) and 421.106(i) through (k) which were already based on the amount of elemental tungsten produced.

### IV. Environmental Impact of the Proposed Amendments to the Nonferrous Metals Manufacturing Phase I Regulation

The proposed amendments described above affect two facilities in the primary tungsten subcategory. These amendments would allow a greater discharge of ammonia, lead and zinc for these facilities than was allowed by the March 1984 regulation. EPA estimates that the increase above the promulgated limits in the amount of ammonia will be no greater than 11.3 kkg at these two facilities. Lead and zinc discharges would increase by approximately 18.6 kg/yr from the one affected facility. The proposed change in the .pa production basis for the regulation would not result in any increase in pollutants discharged.

### V. Economic Impact of the Proposed Amendments

The proposed amendments do not alter the model technologies for complying with the nonferrous metals manufacturing phase I regulation. The Agency considered the economic impact of the regulation when the final regulation was promulgated (see 49 FR 8742). EPA concluded at that time that the regulation was economically achievable.

Since today's proposed amendments are based on the same model technologies, EPA's conclusions as to economic impact and achievability are unaffected.

### VI. Solicitation of Comments

EPA invites public participation in this rulemaking and requests comments on the proposed amendments discussed or set out in this notice. The Agency asks that comments be as specific as possible and that suggested revisions or corrections be supported by data.

### VII. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. Major rules are defined as rules that impose an annual cost to the economy of $100 million or more, or meet other economic criteria. This proposed regulation, which modestly reduces regulatory requirements, is not a major rule.

### VIII. Regulatory Flexibility Analysis

Pub. L. 96-354 requires that EPA prepare a Regulatory Flexibility Analysis for regulations that have a significant impact on a substantial number of small entities. In the preamble to the March 8, 1984 final nonferrous metals manufacturing phase I regulation, the Agency concluded that there would not be a significant impact on a substantial number of small entities (49 FR 8775). For that reason, the Agency determined that a formal regulatory flexibility analysis was not required. That conclusion is equally applicable to these proposed amendments, since the amendments slightly reduce the regulatory requirements.

### IX. OMB Review

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at Room M2404, U.S. EPA, 401 M Street, SW., Washington, DC 20460 from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding Federal holidays.

### List of Subjects in 40 CFR Part 421

Metals, nonferrous metals manufacturing, Water pollution control, Waste treatment and disposal.

Dated: January 7, 1987.

**Lee M. Thomas,**

*Administrator.*

For the reasons stated above, EPA proposes to amend 40 CFR Part 421 as follows:

## PART 421—NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

1. The authority citation for Part 421 continues to read as follows:

**Authority:** Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307, 308, and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act") 33 U.S.C. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

2. Section 40 CFR 421.102 is amended by revising paragraphs (a) through (l) and by adding new paragraphs (m) and (n) to read:

**§ 421.102 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

* * * * *

(a) Subpart J—Tungstic Acid Rinse.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 17.230 | 8.205 |
| Zinc | 59.900 | 25.030 |
| Ammonia (as N) | 5,469.000 | 2,404.000 |
| Total suspended solids | 1,682.000 | 800.000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart J—Acid Leach Wet Air Pollution Control.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 15.040 | 7.162 |
| Zinc | 52.280 | 21.840 |
| Ammonia (as N) | 4,773.000 | 2,098.000 |
| Total suspended solids | 1,468.000 | 698.300 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart J—Alkali Leach Wash.

BPT Effluent Limitations

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |
| Total suspended solids | 000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart J—Alkali Leach Wash Condensate.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 8.057 | 3.837 |
| Zinc | 28.011 | 11.700 |
| Ammonia (as N) | 2,557.000 | 1,124.000 |
| Total suspended solids | 786.200 | 374.100 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart J—Ion Exchange Raffinate (Commingled With Other Process or Nonprocess Waters).

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 37.160 | 17.700 |
| Zinc | 129.200 | 53.970 |
| Ammonia (as N) | 11,790.000 | 5,185.000 |
| Total suspended solids | 3,627.000 | 1,726.000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart J—Ion Exchange Raffinate (Not Commingled With Other Process or Nonprocess Waters).

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 37.160 | 17.700 |
| Zinc | 129.200 | 53.970 |
| Ammonia (as N) [2] | 11,790.000 | 5,185.000 |
| Total suspended solids | 3,627.000 | 1,726.000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.
[2] The effluent limitation guideline for this pollutant does not apply if (a) the mother liquor feed to the ion exchange process or the raffinate from the ion exchange process contains sulfates at concentrations exceeding 1000 mg/l; (b) this mother liquor or raffinate is treated by ammonia steam stripping; and (c) such mother liquor or raffinate is not commingled with any other process or nonprocess waters prior to steam stripping for ammonia removal.

(g) Subpart J—Calcium Tungstate Precipitate Wash.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of calcium tungstate (as W) produced | |
| Lead | 31.000 | 14.760 |
| Zinc | 107.800 | 45.020 |
| Ammonia (as N) | 9,838.000 | 4,325.000 |
| Total suspended solids | 3,026.000 | 1,439.000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium paratungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |
| Total suspended solids | .000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 11.600 | 5.523 |
| Zinc | 40.320 | 16.850 |
| Ammonia (as N) | 3,681.000 | 1,618.000 |
| Total suspended solids | 1,132.000 | 538.500 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(j) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.026 | 0.013 |
| Zinc | .092 | .038 |
| Ammonia (as N) | 8.398 | 3.692 |
| Total suspended solids | 2.583 | 1.229 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 12.940 | 6.161 |
| Zinc | 44.970 | 18.790 |
| Ammonia (as N) | 4,106.000 | 1,805.000 |
| Total suspended solids | 1,263.000 | 600.700 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(l) Subpart J—Reduction to Tungsten Water of Formation.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.205 | 0.098 |
| Zinc | .714 | .298 |
| Ammonia (as N) | 65.190 | 28.660 |
| Total suspended solids | 20.050 | 9.536 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(m) Subpart J—Tungsten Powder Acid Leach and Wash.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 1.008 | 0.48 |
| Zinc | 3.504 | 1.464 |
| Ammonia (as N) | 319.900 | 140.700 |
| Total suspended solids | 98.400 | 46.800 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(n) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

BPT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N ) | .000 | 000 |
| Total suspended solids | .000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

3. Section 40 CFR 421.103 is amended by revising paragraphs (a) through (l) and by adding new paragraphs (m) and (n) to read:

**§ 421.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

* * * * *

(a) Subpart J—Tungstic Acid Rinse.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 11.490 | 5.333 |
| Zinc | 41.850 | 17.230 |
| Ammonia (as N) | 5,469.000 | 2,404.000 |

(b) Subpart J—Acid Leach Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 1.003 | 0.466 |
| Zinc | 3.653 | 1.504 |
| Ammonia (as N) | 477.400 | 209.900 |

(c) Subpart J—Alkali Leach Wash.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | 000 | .000 |
| Ammonia (as N) | .000 | .000 |

(d) Subpart J—Alkali Leach Wash Condensate.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 5.372 | 2.494 |
| Zinc | 19.570 | 8.057 |
| Ammonia (as N) | 2,557.000 | 1,124.000 |

(e) Subpart J—Ion Exchange Raffinate (Commingled With Other Process or Nonprocess Waters).

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N) | 11,790.000 | 5,185.000 |

(f) Subpart J—Ion Exchange Raffinate (Not Commingled With Other Process or Nonprocess Waters).

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (As N)[1] | 11,790.000 | 5,185.000 |

[1] The effluent limitation for this pollutant does not apply if (a) the mother liquor feed to the ion exchange process or the raffinate from the ion exchange process contains sulfates at concentrations exceeding 1000 mg/1; (b) this mother liquor or raffinate is treated by ammonia steam stripping; and (c) such mother liquor or raffinate is not commingled with any other process or nonprocess waters prior to steam stripping for ammonia removal.

(g) Subpart J—Calcium Tungstate Precipitate Wash.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of calcium tungstate (as W) produced | |
| Lead | 20.670 | 9.594 |
| Zinc | 75.280 | 31.000 |
| Ammonia (as N) | 9,838.000 | 4,325.000 |

(h) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium paratungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (As N) | .000 | .000 |

(i) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.773 | 0.359 |
| Zinc | 2.817 | 1.160 |
| Ammnia (as N) | 368.200 | 161.900 |

(j) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.018 | 0.008 |
| Zinc | .064 | .026 |
| Ammonia (as N) | 8.398 | 3.692 |

(k) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of Tungsten metal produced | |
| Lead | 0.862 | 0.400 |
| Zinc | 3.142 | 1.294 |
| Ammonia (as N) | 410.600 | 180.500 |

(l) Subpart J—Reduction to Tungsten Water of Formation.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.137 | 0.064 |
| Zinc | .499 | .205 |
| Ammonia (as N) | 65.190 | 28.660 |

(m) Subpart J—Tungsten Powder Acid Leach and Wash.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.672 | 0.312 |
| Zinc | 2.448 | 1.008 |
| Ammonia (as N) | 319.900 | 140.700 |

(n) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

BAT EFFLUENT LIMITATIONS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | 000 | .000 |

4. Section 40 CFR 421.104 is amended by revising paragraphs (a) through (l) and by adding new paragraphs (m) and (n) to read:

**§ 421.104 Standards of performance for new sources.**

* * * * *

(a) Subpart J—Tungstic Acid Rinse.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 11.490 | 5.333 |
| Zinc | 41.850 | 17.230 |
| Ammonia (as N) | 5,469.000 | 2,404.000 |
| Total suspended solids | 615.400 | 492.300 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(b) Subpart J—Acid Leach Wet Air Pollution Control.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 1.003 | 0.466 |
| Zinc | 3.653 | 1.504 |
| Ammonia (as N) | 477.400 | 209.900 |
| Total suspended solids | 53.720 | 42.970 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(c) Subpart J—Alkali Leach Wash.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |
| Total suspended solids | .000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(d) Subpart J—Alkali Leach Wash Condensate.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 5.372 | 2.494 |
| Zinc | 19.570 | 8.057 |
| Ammonia (as N) | 2,557.000 | 1,124.000 |
| Total suspended solids | 287.800 | 229.600 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(e) Subpart J—Ion Exchange Raffinate (Commingled With Other Process or Nonprocess Waters).

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N) | 11,790.000 | 5,185.000 |
| Total suspended solids | 1,327.000 | 1,062.000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(f) Subpart J—Ion Exchange Raffinate (Not Commingled With Other Process or Nonprocess Waters).

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N) [1] | 11,790.000 | 5,185.000 |
| Total suspended solids | 1,327.000 | 1,062.000 |
| ph | (2) | (2) |

[1] The new source standard for this pollutant does not apply if (a) the mother liquor feed to the ion exchange process or the raffinate from the ion exchange process contains sulfates at concentrations exceeding 100 mg/l; (b) this mother liquor or raffinate is treated by ammonia steam stripping; and (c) such mother liquor or raffinate is not commingled with any other process or nonprocess waters prior to steam stripping for ammonia removal.

[2] Within the range of 7.0 to 10.0 at all times.

(g) Subpart J—Calcium Tungstate Precipitate Wash.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of calcium tungstate (as W) produced | |
| Lead | 20.670 | 9.594 |
| Zinc | 75.280 | 31.000 |
| Ammonia (as N) | 9,838.000 | 4,325.000 |
| Total suspended solids | 1,107.000 | 885.600 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(h) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium paratungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |
| Total suspended solids | .000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(i) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.773 | 0.359 |
| Zinc | 2.817 | 1.160 |
| Ammonia (as N) | 368.200 | 161.900 |
| Total suspended solids | 41.430 | 33.150 |

NSPS—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times

(j) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.018 | 0.008 |
| Zinc | .064 | .026 |
| Ammonia (as N) | 8.398 | 3.692 |
| Total suspended solids | .945 | .756 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(k) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.862 | 0.400 |
| Zinc | 3.142 | 1.294 |
| Ammonia (as N) | 410.600 | 180.500 |
| Total suspended solids | 46.200 | 36.960 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(l) Subpart J—Reduction to Tungsten Water of Formation.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.137 | 0.064 |
| Zinc | .499 | .205 |

NSPS—Continued

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| Ammonia (as N) | 65.190 | 28.660 |
| Total suspended solids | 7.335 | 5.868 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(m) Subpart J—Tungsten Powder Acid Leach and Wash.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.672 | 0.312 |
| Zinc | 2.448 | 1.008 |
| Ammonia (as N) | 319.900 | 140.700 |
| Total suspended | 36.000 | 28.800 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

(n) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

NSPS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |
| Total suspended solids | .000 | .000 |
| pH | (1) | (1) |

[1] Within the range of 7.0 to 10.0 at all times.

5. Section 40 CFR 421.105 is amended by revising paragraphs (a) through (l) and by adding new paragraphs (m) and (n) to read:

**§ 421.105 Pretreatment standards for existing sources.**

* * * * *

(a) Subpart J—Tungstic Acid Rinse.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 11.490 | 5.333 |
| Zinc | 41.850 | 17.230 |
| Ammonia (as N) | 5,469.000 | 2,404.000 |

(b) Subpart J—Acid Leach Wet Air Pollution Control.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 1.003 | 0.466 |
| Zinc | 3.653 | 1.504 |
| Ammonia (as N) | 477.400 | 209.900 |

(c) Subpart J—Alkali Leach Wash.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate acid (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

(d) Subpart J—Alkali Leach Wash Condensate.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 5.372 | 2.494 |
| Zinc | 19.570 | 8.057 |
| Ammonia (as N) | 2,557.000 | 1,124.000 |

(e) Subpart J—Ion Exchange Raffinate (Commingled With Other Process or Nonprocess Waters).

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N) | 11,790.000 | 5,185.000 |

(f) Subpart J—Ion Exchange Raffinate (Not Commingled With Other Process or Nonprocess Waters).

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N)[1] | 11,790.000 | 5,185.000 |

[1] The pretreatment standard for this pollutant does not apply if (a) the mother liquor feed to the ion exchange process or the raffinate from the ion exchange process contains sulfates at concentrations exceeding 1000 mg/l; (b) this mother liquor or raffinate is treated by ammonia steam stripping; and (c) such mother liquor or raffinate is not commingled with any other process or nonprocess waters prior to steam stripping for ammonia removal.

(g) Subpart J—Calcium Tungstate Precipitate Wash.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of calcium tungstate (as W) produced | |
| Lead | 20.670 | 9.594 |
| Zinc | 75.280 | 31.000 |
| Ammonia (as N) | 9,838.000 | 4,325.000 |

(h) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium paratungstate (as W) produced. | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

(i) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.773 | 0.359 |
| Zinc | 2.817 | 1.160 |
| Ammonia (as N) | 368.200 | 161.900 |

(j) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.018 | 0.008 |
| Zinc | .064 | .026 |
| Ammonia (as N) | 8.398 | 3.692 |

(k) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.862 | 0.400 |
| Zinc | 3.142 | 1.294 |
| Ammonia (as N) | 410.600 | 180.500 |

(l) Subpart J—Reduction to Tungsten Water of Formation.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.137 | 0.064 |
| Zinc | .499 | .205 |
| Ammonia (as N) | 65.190 | 28.660 |

(m) Subpart J—Tungsten Powder Acid Leach and Wash.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.672 | 0.312 |
| Zinc | 2.448 | 1.008 |
| Ammonia (as N) | 319.900 | 140.700 |

(n) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

PSES

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

6. Section 40 CFR 421.106 is amended by revising paragraphs (a) through (l) and by adding new paragraphs (m) and (n) to read:

**§ 421.106 Pretreatment standards for new sources.**

* * * * *

(a) Subpart J—Tungstic Acid Rinse.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 11.490 | 5.333 |
| Zinc | 41.850 | 17.230 |
| Ammonia (as N) | 5,469.000 | 2,404.000 |

(b) Subpart J—Acid Leach Wet Air Pollution Control.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic acid (as W) produced | |
| Lead | 1.003 | 0.466 |
| Zinc | 3.653 | 1.504 |
| Ammonia (as N) | 477.400 | 209.900 |

(c) Subpart J—Alkali Leach Wash.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

(d) Subpart J—Alkali Leach Wash Condensate.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of sodium tungstate (as W) produced | |
| Lead | 5.372 | 2.494 |
| Zinc | 19.570 | 8.057 |
| Ammonia (as N) | 2,557.000 | 1,124.000 |

(e) Subpart J—Ion Exchange Raffinate (Commingled With Other Process or Nonprocess Walters).

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90.240 | 37.160 |
| Ammonia (as N) | 11,790.000 | 5,185.000 |

(f) Subpart J—Ion Exchange Raffinate (Not Commingled With Other Process or Nonprocess Waters).

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium tungstate (as W) produced | |
| Lead | 24.780 | 11.500 |
| Zinc | 90,240 | 37.160 |
| Ammonia (as N) [1] | 11,790.000 | 5,185.000 |

[1] The pretreatment standard for this pollutant does not apply if (a) the mother liquor feed to the ion exchange process or the raffinate from the ion exchange process contains sulfates at concentrations exceeding 1000 mg/1; (b) this mother liquor or raffinate is treated by ammonia steam stripping; and (c) such mother liquor or raffinate is not commingled with any other process or nonprocess waters prior to steam stripping for ammonia removal.

(g) Subpart J—Calcium Tungstate Precipitate Wash.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of calcium tungstate (as W) produced | |
| Lead | 20.670 | 9.594 |
| Zinc | 75.280 | 31.000 |
| Ammonia (as N) | 9,838.000 | 4,325.000 |

(h) Subpart J—Crystallization and Drying of Ammonium Paratungstate.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of ammonium paratungstate (as W) produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

(i) Subpart J—Ammonium Paratungstate Conversion to Oxides Wet Air Pollution Control.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (1b/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.773 | 0.359 |
| Zinc | 2.817 | 1.160 |
| Ammonia (as N) | 368.200 | 161.900 |

(j) Subpart J—Ammonium Paratungstate Conversion to Oxides Water of Formation.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungstic oxide (as W) produced | |
| Lead | 0.018 | 0.008 |
| Zinc | .064 | .026 |
| Ammonia (as N) | 8.398 | 3.692 |

(k) Subpart J—Reduction to Tungsten Wet Air Pollution Control.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.862 | 0.400 |
| Zinc | 3.142 | 1.294 |
| Ammonia (as N) | 410.600 | 180.500 |

(l) Subpart J—Reduction to Tungsten Water of Formation.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.137 | 0.064 |
| Zinc | .499 | .205 |
| Ammonia (as N) | 65.190 | 28.660 |

(m) Subpart J—Tungsten Powder Acid Leach and Wash.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.672 | 0.312 |
| Zinc | 2.448 | 1.008 |
| Ammonia (as N) | 319.900 | 140.700 |

(n) Subpart J—Molybdenum Sulfide Precipitation Wet Air Pollution Control.

PSNS

| Pollutant or pollutant property | Maximum for any 1 day | Maximum for monthly average |
|---|---|---|
| | mg/kg (lb/million lbs) of tungsten metal produced | |
| Lead | 0.000 | 0.000 |
| Zinc | .000 | .000 |
| Ammonia (as N) | .000 | .000 |

[FR Doc. 87-1326 Filed 1-21-87; 8:45 am]
BILLING CODE 6560-50-M

Federal Register

Thursday
January 22, 1987

Part III

# Environmental Protection Agency

40 CFR Part 300
Amendment to National Oil and Hazardous Substances Contingency Plan; the National Priorities List; Proposed Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

**[SW-FRL-3144-6]**

## Amendment to National Oil and Hazardous Substances Contingency Plan; the National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency ("EPA") is proposing the sixth update to the National Priorities List ("NPL"). This update contains 64 sites. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually. Today's notice proposes the sixth major revision to the NPL.

These sites are being proposed because they meet the eligibility requirements of the NPL. EPA has included on the NPL releases and threatened releases of designated hazardous substances, as well as "pollutants or contaminants" which may present an imminent and substantial danger to the public health or welfare. This notice provides the public with an opportunity to comment on placing these sites on the NPL.

**DATES:** Comments must be submitted on or before March 23, 1987.

**ADDRESSES:** Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Addresses for the Headquarters and Regional dockets are provided below. For further details on what these dockets contain, see the Public Comment Section, Section IV, of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

Denise Sines, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street SW., Washington, DC 20460, 202/382-3046
Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791
Carole Petersen, Region 2, U.S. EPA, Site Investigation & Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677
Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Bldg., 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580
Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street NE., Atlanta GA 30365, 404/347-4216
Jeanne Griffin, Region 5, U.S. EPA, 230 South Dearborn Street, Chicago, IL 60604, 312/886-3007
Barry Nash, Region 6, U.S. EPA, InterFirst II Bldg., 1201 Elm Street, Dallas, TX 75270, 214/767-4075
Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828
Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 1300, Denver, CO 80202-2413, 303/293-1444
Jean Circiello, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076
Joan Shafer, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-4903

**FOR FURTHER INFORMATION CONTACT:** Ann R. Sarno, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I Introduction
II Purpose of the NPL
III NPL Update Process
IV Public Comment Period
V Eligibility
VI Contents of the Proposed Sixth NPL Update
VII Regulatory Impact Analysis
VIII Regulatory Flexibility Act Analysis

### I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601, *et seq.* ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites. To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300, on July 16, 1983 (47 FR 31180), pursuant to section 105 of CERCLA and Executive Order 12316 (46 FR 42237, August 20, 1981). The National Contingency Plan ("NCP"), further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)). These criteria are included in Appendix A of the NCP, *Uncontrolled Hazardous Waste Site Ranking System: A User's Manual* (the "Hazard Ranking System" or "HRS") (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that the statutory criteria described in the HRS be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States. The list, which is Appendix B of the NCP, is the National Priorities List ("NPL").

Today, in this notice, EPA is proposing to add 64 sites to the NPL, bringing the number of proposed sites to 248.[1] The final NPL contains 703 sites. EPA is proposing to include on the NPL sites at which there are or have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites".

### II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in inself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

[1] The total number of proposed sites reflects the removal of Silver Creek Tailings site from proposed status, as required by the Superfund Amendments and Reauthorization Act of 1986 (section 118(p)), effective October 17, 1986.

The primary purpose of the NPL, therefore, is to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake remedial actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. In addition, a site need not be on the NPL to be the subject of CERCLA-financed removal actions, remedial investigations/feasibility studies, or actions brought pursuant to sections 106 or 107(a)(4)(B) of CERCLA.

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities, EPA does not rely on the scores as the sole means of determining such priorities. The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude of the contaminants in the environment, the risk to affected populations, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct response action at some sites on the NPL because of more pressing needs at other sites, or because an enforcement action may instigate or force private-party cleanup. Given the limited resources available in the Hazardous Substance Response Trust Fund established under CERCLA, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant response action.

## III. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, are proposed for listing.

The Superfund Amendments and Reauthorization Act (SARA), enacted on October 17, 1986, directs EPA to revise the HRS. The Agency will continue to use the existing HRS until the revised HRS becomes effective. Sites proposed for, or included on, the NPL prior to the effective date of the revised HRS will not be reevaluated.

In addition, States may designate a single site as the State top priority. In rare instances, EPA may utilize the listing provision promulgated as § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985).

Section 300.66(b)(4) of the NCP allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the criteria for listing and solicits public comments on the proposal. Based on these comments and further EPA review, the Agency determines final scores and promulgates those sites that still qualify for listing.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; and 51 FR 21054, June 10, 1986). On March 7, 1986 (51 FR 7935), EPA published a notice to delete eight sites from the NPL. As of June 10, 1986, the number of final NPL sites was 703. Another 184 sites from previous updates remain proposed for the NPL (see 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; and 51 FR 21099, June 10, 1986). With the 64 sites in proposed Update #6, 248 sites are now proposed for the NPL.

## IV. Public Comment Period

This **Federal Register** notice proposing sites for NPL Update #6 opens the formal 60-day comment period. Comments may be mailed to Russel H. Wyer, Director, Hazardous Site Control Division (Attn: NPL staff), Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The "**ADDRESSES**" portion of this notice contains information on where to obtain documents relating to the scoring of these proposed sites. Documents providing EPA's justification for proposing these sites are available to the public in both the Headquarters public docket and in the appropriate Regional Office's public docket.

The Headquarters public docket for NPL Update #6 contains: HRS score sheets for each proposed site; a Documentation Record for each site describing the technical rationale for the HRS scores; and a list of reference documents. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401 M Street SW., Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of the HRS documents may be directed to the EPA Headquarters docket office.

The Regional public dockets contain HRS score sheets, Documentation Records, and a list of reference documents for each site in that Region. These Regional dockets also contain documents referenced in the Documentation Record which contain the data EPA relied upon in calculating or evaluating the HRS scores. The reference documents are available only in the Regional public dockets. These reference documents may be viewed in

the appropriate Regional Office, and requests for copies of them may be directed to the appropriate Regional Superfund Branch Office. Documents with some relevance to the scoring of each site, but which were not used as references, are also available only in the appropriate EPA Regional office, and may be viewed and copied by arrangement with that office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents.

EPA considers all comments received during this formal comment period. Comments received are placed into the Headquarters docket and, during the comment period, are available to the public only in the Headquarters docket. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week following the close of the formal comment period. Comments received after the close of the comment period will be available in the Headquarters docket and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments. After considering the relevant comments received during the comment period, EPA will add to the NPL all proposed sites that meet EPA's criteria for listing. In past NPL rulemakings, EPA has considered comments received after the close of the comment period. However, with the increased frequency of NPL rulemakings, EPA may no longer be able to consider late comments.

## V. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases and expressly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. Preambles to previous NPL rulemakings have discussed examples of these policies. (See, e.g., 48 FR 40658 (September 8, 1983); 49 FR 37070 (September 21, 1984); 49 FR 40320 (October 15, 1984); and 51 FR 21056 (June 10, 1986).) Sites proposed for the NPL in this update meet these past eligibility policies. The policies regarding Federal facilities and Resource Conservation and Recovery Act (RCRA) sites are relevant to this update and are discussed below.

### *Federal Facility Releases*

CERCLA as amended by section 120(a) of SARA, requires that Federal facilities be subject to, and comply with, the Act in the same manner as any non-governmental entity. In addition, listing Federal facilities is consistent with the NPL's purpose of providing information to the public with respect to sites that present potential hazards. CERCLA section 111(e)(3), however, prohibits use of the Trust Fund for remedial actions at Federally-owned facilities.

For Update #6, the Agency is proposing one Federal facility (listed in Table 2) and requests comments on the scoring of this site. As of today, EPA has proposed 48 Federal facilities for the NPL.

### *Releases from Resource Conservation and Recovery Act (RCRA) Sites*

On June 10, 1986 (51 FR 21057), EPA announced components of a final policy for placing sites on the NPL that are subject to the corrective action requirements of Subtitle C of RCRA. At the same time, the Agency requested comment on several proposed components of the RCRA/NPL policy (51 FR 21109). Under the final policy, sites not subject to RCRA Subtitle C corrective action requirements will remain eligible for the NPL. Examples of NPL-eligible sites include:

- Facilities that ceased treating, storing, or disposing of hazardous wastes prior to November 19, 1980 (the effective date of Phase I of the Subtitle C regulations).
- Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.
- Hazardous waste generators or transporters not required to have Interim Status or a final RCRA permit.

Sites with releases that can be addressed under the RCRA Subtitle C corrective action authorities generally will not be placed on the NPL. However, RCRA sites may be listed if they meet all of the other criteria for listing (e.g., an HRS score of 28.50 or greater), and if they fall within one of the following categories:

(1) Facilities owned by persons who are bankrupt.

(2) Facilities that have lost authorization to operate, and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.

(3) Sites, analyzed on a case-by-case basis, whose owners or operators have shown an unwillingness to undertake corrective action.

EPA is reviewing comments submitted in response to the proposed components of the RCRA policy and is in the process of developing a complete final RCRA policy. However, based on the application of the final components of the RCRA/NPL policy announced on June 10, 1986 (51 FR 21057), EPA is proposing four RCRA sites for the NPL. Three of these sites are bankrupt:

- Parsons Casket Hardware Co., Belvidere, Illinois
- Allied Plating, Inc., Portland, Oregon
- Palmetto Recycling, Inc., Columbia, South Carolina

EPA has determined that a fourth RCRA facility is eligible for the NPL because it has lost its RCRA authorization to operate and appears unwilling to undertake corrective action. This site is:

- Chem-Solv, Inc., Cheswold, Delaware

Chem-Solv lost authorization to operate in August 1985 when the State of Delaware denied its RCRA storage permit. In 1984 and 1985 the State issued two orders requiring Chem-Solv to begin remedial action at the site in order to address imminent hazards. Chem-Solv has refused to comply with these orders; the company has stated that it is financially unable to perform remedial action.

Documents supporting the decisions for these RCRA-related sites are contained in the appropriate Regional dockets and are available for public review.

## VI. Contents of the Proposed Sixth NPL Update

All sites in today's proposed addition to the NPL received HRS scores of 28.50 or above.

Following this preamble is a list of the 64 sites proposed for addition to the NPL (Table 1 and 2). Each entry on the list contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each proposed site is placed by score in a group corresponding to groups of 50 sites presented within the final NPL. For example, sites in Group 8 of the proposed update have scores that fall within the range of scores covered by the eighth group of 50 sites on the final NPL. Each entry is accompanied by one or more notations reflecting the status of response and cleanup activities at the site at the time this list was prepared. Because this information may change periodically, these notations may become outdated.

Five response categories are used to designate the type of response underway. One or more categories may apply to each site. The categories are: Federal and/or State response (R),

Federal enforcement (F), State enforcement (S), Voluntary or negotiated response (V), and Category to be determined (D).

EPA also indicates the status of significant Fund-financed or private-party cleanup activities underway or completed at proposed and final NPL sites. There are three cleanup status codes; only one code is necessary to designate the status of cleanup activities at each site since the codes are mutually exclusive. The codes are: Implementation activities are underway for one or more operable units (I), Implementation activities are completed for one or more (but not all) operable units, but additional site cleanup actions are necessary (O), and Implementation activities are completed for all operable units (C).

These categories and codes are explained in detail in earlier rulemakings, the most recent on June 10, 1986 (51 FR 21075).

## VII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of the economic implications of today's proposal to add new sites. EPA believes that the kinds of economic effects associated with this revision are generally similar to those identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA (47 FR 31180, July 16, 1982) and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to proposing the addition of these sites to the NPL can be characterized in terms of the conclusions of the earlier RIA and the most recent economic analysis.

### *Costs*

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in a proposed rulemaking. This action was submitted to the Office of Management and Budget for review.

The major events that generally follow the proposed listing of a site on the NPL are a search for responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, design and construction, and O&M, or the costs may be shared by EPA and the States.

The State cost share for cleanup activities has been amended by section 104 of SARA. For privately-owned sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. Similarly, at publicly-owned but not publicly-operated sites, the cost share for remedial action is 90%:10%. At publicly-operated sites, however, the State cost share is at least 50% of all response costs. This includes the RI/FS, remedial design and construction, and O&M.

With regard to O&M for cleanup activities other than ground water or surface water, EPA will share, for up to 1 year, in the cost of that portion of O&M that is necessary to assure that a remedy is operational and functional. After that time, the State assumes full responsibility for O&M. SARA provides that EPA will share in the operational cost associated with ground water/surface water restoration for up to 10 years.

In previous NPL rulemakings, the Agency has provided estimates of the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per-site and total cost basis. At this time, however, there is insufficient information to determine what these costs will be as a result of the new requirements under SARA. Until such information is available, the Agency will provide cost estimates based on CERCLA prior to enactment of SARA; these estimates are presented below. EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

| Cost category | Average total cost per site [1] |
|---|---|
| RI/FS | $875,000 |
| Remedial design | 850,000 |
| Remedial action | [2] 8,600,000 |
| Net present value of O&M [3] | [2] 3,770,000 |

[1] 1986 U.S. Dollars.
[2] Includes State cost-share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year and 10% discount rate.

SOURCE: "Extent of the Hazardous Release Problem and Future Funding Needs-CERCLA section 301(a)(1)(c) Study", December 1984, Office of Solid Waste and Emergency Response, U.S. EPA.

Costs to States associated with today's proposed amendment arise from the required State cost-share of: (1) 10% of remedial action and 10% of first-year O&M costs at privately-owned sites and sites which are publicly-owned but not publicly-operated; and (2) at least 50% of the remedial planning (RI/FS and remedial design), remedial action, and first-year O&M costs at publicly operated sites. States will assume the cost for O&M after the first year. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 63 non-Federal sites proposed to be added to the NPL in this amendment will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the cost to States of undertaking Federal remedial actions at all 63 non-Federal sites would be approximately $294 million, of which approximately $205 million is attributable to the State O&M cost. As a result of the changes to State cost share under SARA, however, the Agency believes that State O&M costs may actually decrease. When new cost information is available, it will be presented in future rulemakings.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the site voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time

which firms or industry sectors will bear specific portions of response costs, but the Agency considers: the volume and nature of the wastes at the site, the parties' ability to pay, and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this proposed amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

*Benefits*

The Benefits associated with today's proposed amendment to list additional sites are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, this proposed expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement actions.

As a result of additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. These benefits are expected to be significant, although difficult to estimate in advance of completing the RI/FS at these particular sites.

Associated with the costs or remedial actions are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

## VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. Proposing sites for the NPL does not in itself require any action by any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's proposed inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected businesses at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the proposed listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including the firm's contribution to the problem and the firm's ability to pay. The impacts from cost recovery on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

**List of Subjects in 40 CFR Part 300**

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: January 15, 1987.

**Jack W. McGraw,**

*Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.*

## PART 300—[AMENDED]

It is proposed to amend 40 CFR Part 300 as follows:

1. The authority citation for Part 300 continues to read as follows:

**Authority:** 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. It is proposed to add the following sites by Group, to Appendix B of Part 300:

**Note.**—In proposed rules, the number in the left column corresponds to the Group number in Appendix B.

BILLING CODE 6560-50-M

National Priorities List,
Proposed Update 6 Sites (by Group)
January 1987

| NPL Gr[1] | St | Site Name | City/County | Response Category[2] | Cleanup Status[3] |
|---|---|---|---|---|---|
| 1 | UT | Wasatch Chemical Co. (Lot 6) | Salt Lake City | V R F S | O |
| 2 | IL | Parsons Casket Hardware Co. | Belvidere | D | |
| 2 | PA | Salford Quarry | Salford Township | D | |
| 2 | VA | Saunders Supply Co. | Chuckatuck | D | |
| 3 | CA | S.CA Edison (Visalia Poleyard) | Visalia | D | |
| 3 | DE | E.I. Du Pont (Newport Plant Lf) | Newport | D | |
| 3 | NC | Aberdeen Pesticide Dumps | Aberdeen | V R | O |
| 3 | NY | Jones Sanitation | Hyde Park | D | |
| 3 | PA | Hellertown Manufacturing Co. | Hellertown | D | |
| 3 | VA | Greenwood Chemical Co. | Newtown | D | |
| 4 | MD | Woodlawn County Landfill | Woodlawn | D | |
| 5 | NC | Charles Macon Lagoon & Drum Stor | Cordova | R | O |
| 5 | VA | C & R Battery Co., Inc. | Chesterfield County | R | I |
| 6 | CA | Watkins-Johnson Co. (Stewart Div) | Scotts Valley | S | I |
| 6 | CT | Nutmeg Valley Road | Wolcott | D | |
| 6 | PA | River Road Lf (Waste Mngmnt, Inc) | Hermitage | D | |
| 6 | WI | Spickler Landfill | Spencer | D | |
| 7 | DE | Dover Gas Light Co. | Dover | D | |
| 7 | MI | Barrels, Inc. | Lansing | R | I |
| 7 | PA | Avco Lycoming (Williamsport Div) | Williamsport | V S | I |
| 7 | PA | Commodore Semiconductor Group | Lower Providence Twp | D | I |
| 7 | PA | Novak Sanitary Landfill | South Whitehall Twp | D | |
| 8 | OR | Allied Plating, Inc. | Portland | D | |
| 8 | SC | Golden Strip Septic Tank Service | Simpsonville | D | |
| 8 | TN | Arlington Blending & Packaging | Arlington | R | O |
| 8 | VA | H & H Inc., Burn Pit | Farrington | D | |
| 9 | DE | Chem-Solv, Inc. | Cheswold | R | O |
| 9 | DE | Pigeon Point Landfill | New Castle | D | |
| 9 | SC | Sangamo/Twelve-Mile/Hartwell PCB | Pickens | V F | |

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response R = Federal and State response
F = Federal enforcement S = State enforcement
D = Category to be determined

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

| NPL Gr[1] | St | Site Name | City/County | Response Category[2] | Cleanup Status[3] |
|---|---|---|---|---|---|
| 10 | GA | Diamond Shamrock Corp. Landfill | Cedartown | D | |
| 10 | IN | McCarty's Bald Knob Landfill | Mt. Vernon | D | |
| 10 | LA | Dutchtown Treatment Plant | Ascension Parish | D | |
| 10 | PA | Aladdin Plating | Scott Township | D | |
| 10 | PA | American Electronics Laboratories | Montgomeryville | D | |
| 10 | PA | Ametek, Inc. (Hunter Spring Div) | Hatfield | D | |
| 10 | PA | Gentle Cleaners/Granite Knitting | Souderton | D | |
| 10 | PA | J.W. Rex/Allied Paint/Keystone | Lansdale | D | |
| 10 | PA | Spra-Fin, Inc. | North Wales | D | |
| 10 | PA | William Dick Lagoons | West Caln Township | D | |
| 11 | MO | Kem-Pest Laboratories | Cape Girardeau | D | |
| 11 | NJ | Cosden Chemical Coatings Corp. | Beverly | D | |
| 11 | NJ | Curcio Scrap Metal, Inc. | Saddle Brook Twp | D | |
| 11 | VA | Dixie Caverns County Landfill | Salem | D | |
| 12 | KS | Obee Road | Hutchinson | D | |
| 12 | NC | Carolina Transformer Co. | Fayetteville | R F | O |
| 12 | NY | Islip Municipal Sanitary Landfill | Islip | D | |
| 12 | WI | Tomah Fairgrounds | Tomah | D | |
| 13 | GA | Mathis Bros Lf (S Marble Top Rd) | Kensington | D | |
| 13 | IL | Stauffer Chem (Chic Heights Plnt) | Chicago Heights | D | |
| 13 | MI | Ford Motor Co. (Sludge Lagoon) | Ypsilanti | D | |
| 13 | OK | Tenth Street Dump/Junkyard | Oklahoma City | R F | O |
| 13 | PA | Paoli Rail Yards | Paoli | V F | |
| 13 | VA | Rentokil, Inc. (VA Wood Pres Div) | Richmond | D | |
| 13 | WI | Tomah Armory | Tomah | D | |
| 14 | AR | Jacksonville Municipal Landfill | Jacksonville | D | |
| 14 | AR | Rogers Road Municipal Landfill | Jacksonville | D | |
| 14 | MI | Metal Working Shop | Lake Ann | D | |
| 14 | MN | Ritari Post & Pole | Sebeka | D | |
| 14 | MO | Wheeling Disposal Service Co. Lf | Amazonia | D | |
| 14 | NJ | Horstmann's Dump | East Hanover | D | |
| 14 | PA | Transicoil, Inc. | Worcester | D | |
| 14 | SC | Palmetto Recycling, Inc. | Columbia | S | |
| 14 | TN | Mallory Capacitor Co. | Waynesboro | D | |

Number of Sites Proposed for Listing: 63

National Priorities List,
Federal Proposed Update 6 Sites (by Group)
January 1987

| NPL Gr[1] | St | Site Name | City/County | Response Category[2] | Cleanup Status[3] |
|---|---|---|---|---|---|
| 12 | MN | Twin Cities Air Force (SAR Lndfl) | Minneapolis | R | |

Number of Federal Sites Proposed for Listing: 1

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response
F = Federal enforcement
D = Category to be determined
R = Federal and State response
S = State enforcement

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

[FR Doc. 87-1353 Filed 1-21-87; 8:45 am]
BILLING CODE 6560-50-C

Federal Register

Thursday
January 22, 1987

Part IV

# Department of Commerce

International Trade Administration

15 CFR Part 371, 373, 376, 379, 385 and 399

Extension of Foreign Policy Controls and Removal of Restrictions on Exports of Oil and Gas Equipment to the Soviet Union; Final Rule

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**15 CFR Parts 371, 373, 376, 379, 385, and 399**

**[Docket No. 70111-7011]**

## Extension of Foreign Policy Controls and Removal of Restrictions on Exports of Oil and Gas Equipment to the Soviet Union

**AGENCY:** Export Administration, International Trade Administration, Commerce.

**ACTION:** Final rule; notice of extension of foreign policy controls.

**SUMMARY:** On January 20,1987, the Department of Commerce, with the concurrence of the Secretary of State and in consultation with other Departments and Agencies, submitted a report to the Congress extending foreign policy controls as required by section 6(f) of the Export Administration Act of 1979, as amended (the Act). Under the Act, foreign policy controls expire annually unless extended. With one exception, all foreign policy controls in effect as of January 20, 1987, were extended. Not included in the extension were the foreign policy-based controls on exports of non-strategic oil and gas equipment and related technical data to the Union of Soviet Socialist Republics. These controls, which were imposed in 1978, are being removed because they do not meet the criteria for extension established by the Congress, and they have resulted in harm to significant U.S. economic interests. Specifically, widespread foreign availability of oil and gas equipment and technology and the negative impact of the controls on the U.S. oil and gas industry have eroded the effectiveness of these controls. There is strong public support for the removal of the controls, as evidenced in comments recently received by the Department of Commerce in response to a request published in the **Federal Register** on October 15, 1986 (51 FR 36702), for comments on the effects of foreign policy-based export controls. The public record of these comments is maintained at the address listed below.

**EFFECTIVE DATE:** January 21, 1987.

**ADDRESS:** The public record of comments on the October 15, 1986 proposed rule is maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4104, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Information about the inspection and copying of the public comments may be obtained from Patricia Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

**FOR FURTHER INFORMATION CONTACT:** Glenn Schroeder, Country Policy Branch, Export Administration, Department of Commerce, Washington, DC (Telephone: (202) 377-3160).

**SUPPLEMENTARY INFORMATION:**

### Rulemaking Requirements

1. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule involves collections of information subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* However, this rule reduces the regulatory burden on exporters because it eliminates the individual validated license requirement for exports of certain oil and gas equipment and related technical data to the Soviet Union, as well as eliminating the written assurance requirement for exports of technical data related to oil and gas exploration and production. These collections were approved by the Office of Management and Budget under OMB control numbers 0625-0001 and 0625-0140.

### List of Subjects

*15 CFR Part 379*

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology, Union of Soviet Socialist Republics.

*15 CFR Part 385*

Communist countries, Exports, Union of Soviet Socialist Republics.

*15 CFR Part 399*

Exports, Reporting and recordkeeping requirements, Union of Soviet Socialist Republics.

Accordingly, Parts 379, 385, and 399 of the Export Administration Regulations (15 CFR Parts 368 through 399) are amended as follows:

1. The authority citation for Parts 379, 385, and 399 continues to read as follows:

**Authority:** Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1995), as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 (October 2, 1986); E.O. 12571, October 27, 1986 (51 FR 39505, October 29, 1986).

## PART 379—[AMENDED]

2. In § 379.4, the introductory text of paragraph (f)(1) is revised to read as follows and paragraph (f)(1)(i)(P) is removed and reserved.

**§ 379.4 General License GTDR: Technical Data Under Restriction.**

* * * * *

(f) *Written assurance requirements*—(1) *Requirement of written assurance for certain data, services, and materials.* No export of technical data of the kind described in paragraphs (f)(1)(i) (A) through (Q) (not (R)) of this section may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product [19]

[19] The term "direct product," as used in this sentence and in this context only, is defined to

Continued

thereof is intended to be shipped, either directly or indirectly, to Country Group Q, S, W,[20] Y, or Z, or Afghanistan or the People's Republic of China, except as provided in paragraph (f)(1)(ii) of this section. No export of technical data of the kind described in paragraph (f)(1)(i)(R) of this section may be made under the provisions of this General License GTDR until the exporter has received written assurance from the importer that neither the technical data nor the direct product [19] thereof is intended to be shipped, directly or indirectly, to the Kama River (Kama AZ) or ZIL truck plants in the U.S.S.R., except as provided in paragraph (f)(1)(ii) of this section. The required assurance may be in the form of a letter or other written communication from the importer evidencing such intention, or a licensing agreement that restricts disclosure of the technical data to use only in a country other than Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of China, and prohibits shipments of the direct product [19] thereof by the licensee to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of China, or for data of the kind described in paragraph (f)(1)(i)(R), to the Kama River (Kama AZ) or ZIL truck plants in the U.S.S.R. An assurance included in a licensing agreement will be acceptable for all exports made during the life of the agreement. If such assurance is not received, this general license is not applicable and a validated export license is required. An application for such validated license shall include an explanatory statement setting forth the reasons why such assurance cannot be obtained. In addition, this general license is not applicable to any export of technical data of the kind described in paragraphs (f)(1)(i) (A) through (Q) (not (R)) of this section if, at the time of export of the technical data from the United States, the exporter knows or has reason to believe that the direct product to be manufactured abroad by use of the technical data is intended to be exported or reexported, directly or indirectly, to Country Group Q, S, W, Y, or Z, or Afghanistan or the People's Republic of China, or, for data of the kind described in paragraph (f)(1)(i)(R), to the Kama River (Kama AZ) or ZIL truck plants in the U.S.S.R.

* * * * *

## PART 385—[AMENDED]

### § 385.2 [Amended]

3. In § 385.2, paragraph (c) is removed and reserved.

### § 385.4 [Amended]

4. In § 385.4, paragraph (f) is amended by removing the last two sentences of the paragraph.

## PART 399—[AMENDED]

### § 399.1 [Amended]

5. Supplement No. 1 to § 399.1 (the Commodity Control List) is amended as follows:

A. In Commodity Group 0 (Metal-Working Machinery), Export Control Commodity Number (ECCN) 6098F is removed;

B. In Commodity Group 1 (Chemical and Petroleum Equipment), ECCN 6191F is removed;

C. In Commodity Group 3 (General Industrial Equipment), ECCNs 6390F, 6391F, and 6392F are removed;

D. In Commodity Group 5 (Electronics and Precision Instruments), ECCN 6598F is removed; and

E. In Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 6779F is removed.

### § 399.2 [Amended]

6. Supplement No. 1 to § 399.2 is amended as follows:

A. Under Interpretation 24, in the list entitled "Plastic Materials and Artificial Resins as Follows" the footnote reading "A validated license is required for export of these commodities to the U.S.S.R., Estonia, Latvia, and Lithuania" is removed from the entry for "Carboxy vinyl polymers, water soluble".

B. Under Interpretation 24, in the list entitled "Chemical Preparations and Compounds, Miscellaneous Related Materials and Products, n.e.s., as Follows," the footnote reading "A validated license is required for export of these commodities to the U.S.S.R., Estonia, Latvia, and Lithuania" is removed from the following entries:

Flocculating agents, n.e.s.
Oil field demulsifying agents

C. Under Interpretation 29, in the list entitled "General Industrial Equipment" the footnote reading "A validated license is required for export to the U.S.S.R., Estonia, Latvia, Lithuania, and Afghanistan of any equipment specially designed or modified for use in the exploration or production of petroleum or natural gas, and specially designed parts, components, or accessories therefor" is removed from the following entries:

Excavating, leveling, mining, oil well drilling, well drilling, construction, and maintenance equipment, n.e.s.
Gas or liquid supply meters, n.e.s.
Line-travelling coating and wrapping for pipes and tubes
Oil field wire line and downhole equipment

Special purpose vehicles, n.e.s., non-military, e.g., cement mixers, street and airfield cleaning equipment, asphalt mixers, mine shuttle vehicles, trucks with derrick assemblies, and similar equipment mounted integral to the truck frame, seismograph thumper/vibrator mounted trucks and oil/gas well drilling rigs.

Dated: January 20, 1987.

**Paul Freedenberg,**

*Assistant Secretary for Trade Administration*

[FR Doc. 87-1577 Filed 1-21-87; 10:05 am]

BILLING CODE 3510-DT-M

---

mean the immediate product (including processes and services) produced directly by use of the technical data, except that petroleum or chemical products other than molecular sieves or catalysts are not included in this definition. The coverage of the term does not extend to the results of the use of such "direct product." An example of the direct product of technical data is reforming process equipment designed and constructed by use of the technical data exported, but the aromatics produced by the reforming process equipment are not immediate or direct products of these technical data. However, if the technical data are a formula for producing aromatics, the aromatics, although they are immediate products of the data, are not included in this definition of direct product, since they are petroleum products. Conversely, if the technical data are a formula for producing either molecular sieves or catalysts, the foreign-produced molecular sieves and catalysts are included in the defintion of direct product.

[20] Effective April 26, 1971, Country Group W no longer included Romania. Assurances executed prior to April 26, 1971, and referring to Country Group W continue to apply to Romania as well as Poland. Effective June 2, 1980, Hungary was added to Country Group W, which at that time included only Poland. Assurances executed prior to June 2, 1980, and referring to Country Group Y continue to apply to Hungary. Assurances executed on or after June 2, 1980, and referring to Country Group W apply to Hungary as well as Poland.

# Reader Aids

Federal Register

Vol. 52, No. 14

Thursday, January 22, 1987

## INFORMATION AND ASSISTANCE

### SUBSCRIPTIONS AND ORDERS

| | |
|---|---|
| Subscriptions (public) | 202-783-3238 |
| Problems with subscriptions | 275-3054 |
| Subscriptions (Federal agencies) | 523-5240 |
| Single copies, back copies of FR | 783-3238 |
| Magnetic tapes of FR, CFR volumes | 275-1184 |
| Public laws (Slip laws) | 275-3030 |

### PUBLICATIONS AND SERVICES

**Daily Federal Register**

| | |
|---|---|
| General information, index, and finding aids | 523-5227 |
| Public inspection desk | 523-5215 |
| Corrections | 523-5237 |
| Document drafting information | 523-5237 |
| Legal staff | 523-4534 |
| Machine readable documents, specifications | 523-3408 |

**Code of Federal Regulations**

| | |
|---|---|
| General information, index, and finding aids | 523-5227 |
| Printing schedules and pricing information | 523-3419 |

**Laws** 523-5230

**Presidential Documents**

| | |
|---|---|
| Executive orders and proclamations | 523-5230 |
| Public Papers of the President | 523-5230 |
| Weekly Compilation of Presidential Documents | 523-5230 |

**United States Government Manual** 523-5230

**Other Services**

| | |
|---|---|
| Library | 523-5240 |
| Privacy Act Compilation | 523-4534 |
| TDD for the deaf | 523-5229 |

## FEDERAL REGISTER PAGES AND DATES, JANUARY

1-228.....2
229-388.....5
389-516.....6
517-660.....7
661-754.....8
755-1178.....9
1179-1312.....12
1313-1430.....13
1431-1618.....14
1619-1896.....15
1897-2098.....16
2099-2212.....20
2213-2388.....21
2389-2502.....22

## CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

**Proclamations:**
5595.....229
5596.....755
5597.....1431
5598.....1897
5599.....2213

**Executive Orders:**
12462 (Amended by EO 12579).....515
12496 (Superseded by EO 12578).....505
12578.....505
12579.....515

**Administrative Orders:**
Memorandums:
Oct. 6, 1986 (See Memorandum of Dec. 30, 1986).....1619
Dec. 30, 1986....231, 233, 1619
Jan. 2, 1987.....389
Presidential Determinations:
No. 87-6 of Dec. 27, 1986.....2389
No. 87-7 of Jan. 5, 1987.....2391

### 5 CFR

Ch. XIV.....1313
534.....1
831.....1621
841.....2056-2058
842.....2059-2068
843.....2071, 2352
890.....2

### 7 CFR

2.....235, 2099
17.....1623
272.....1298
273.....1298
300.....1179
301.....1180
319.....2099
906.....1899
907.....240, 757, 1900
910.....241, 757, 1899, 1901
911.....758, 1313
912.....1899
913.....1899
915.....2100
927.....1899
929.....1899
931.....1899
946.....1899
966.....1899
982.....1899
984.....1899
989.....1899
1036.....241
1065.....1314
1403.....2393
1421.....1315, 1433
1438.....1433
1476.....1433
1480.....1433
1772.....1181
1786.....1434
1787.....2394
1944.....243
1951.....243

**Proposed Rules:**
301.....291, 1276
318.....292
319.....685, 2114
658.....1465
925.....432
944.....432
981.....1918
989.....1919
1240.....797
1809.....1706
1900.....1706
1902.....1706
1910.....1706
1924.....1706
1930.....296
1941.....1706
1943.....1706
1945.....1706
1951.....1706
1955.....1706
1962.....1706
1965.....1706
1980.....1706

### 8 CFR

103.....3, 661

**Proposed Rules:**
Ch. I.....2115
252.....1634
271.....1920

### 9 CFR

50.....1316
77.....1316
78.....1623
151.....1317
307.....3
309.....2101
310.....2101
318.....5, 2176
350.....3
351.....3
354.....3
355.....3
362.....3
381.....3, 2176

**Proposed Rules:**
71.....1921
76.....1921
78.....1336
85.....1921
319.....2416

**10 CFR**

9.....759
30.....1292
40.....1292
50.....1292, 1336, 2352
61.....397, 1292
70.....1292
72.....1292
503.....658
1040.....1901
1041.....1901
**Proposed Rules:**
2.....1415
50.....543, 1200, 2416
62.....1634

**11 CFR**

100.....760
102.....760
103.....760
104.....760
110.....760
**Proposed Rules:**
100.....2416

**12 CFR**

204.....2215
227.....2398
341.....1182
602.....2105
620.....1440, 2105
621.....1440, 2105
**Proposed Rules:**
225.....543
563.....80

**13 CFR**

121.....397, 2400

**14 CFR**

21.....656, 1806
23.....656, 1806
36.....1806
39.....517-523, 1318, 1319, 1440-1443, 2215-2217
71.....524, 525, 775, 1418, 1426, 1625, 2218
91.....1806
97.....661, 2219
135.....1806
**Proposed Rules:**
Ch. I.....1924
1.....1635
27.....1635
29.....1635
39.....435, 551-557, 1338, 1468
71.....81, 297, 558-560, 1925
91.....2236
135.....2236

**15 CFR**

22.....6
371.....2105, 2500
372.....663, 2105
373.....2105, 2500
376.....776, 2500
377.....2105
379.....2105, 2500
385.....2105, 2500
386.....663, 2105
387.....2105
389.....2105
399.....405, 665, 2105, 2500

**16 CFR**

13.....253, 254, 656
1034.....405
1750.....405
**Proposed Rules:**
13.....1926
424.....2115

**17 CFR**

1.....777
5.....1444
33.....777
200.....2220, 2400
240.....2220

**18 CFR**

2.....9
37.....11
271.....2401
388.....779
**Proposed Rules:**
Ch. XIII.....1469
11.....82
410.....1930

**19 CFR**

4.....254
24.....255
**Proposed Rules:**
6.....2418
24.....2419
101.....1470

**20 CFR**

364.....526
**Proposed Rules:**
404.....2116
626.....1932
627.....1932
628.....1932
629.....1932
630.....1932
631.....1932

**21 CFR**

74.....902, 1902
81.....902
82.....902
176.....527
178.....406
201.....2108
520.....666
522.....1902
558.....530, 780, 1626
561.....1446
1306.....1903
1308.....2221
**Proposed Rules:**
310.....2007
314.....2007
630.....1933
874.....656
878.....656
886.....656

**22 CFR**

43.....1447, 2111

**23 CFR**

**Proposed Rules:**
Ch. I.....1200
658.....298

**24 CFR**

35.....1876
200.....1876
881.....1876
882.....1876
886.....1876
**Proposed Rules:**
200.....1320
203.....1320
220.....1320
228.....1320
232.....1201
241.....1201
242.....1201
905.....1415

**25 CFR**

256.....38
272.....38

**26 CFR**

1.....39, 40, 409, 1416, 1691
602.....40, 1416, 1691
**Proposed Rules:**
1.....83, 438, 802, 1416
7.....802
20.....802
25.....802
31.....2007
53.....802
56.....802
602.....1416

**27 CFR**

19.....530, 667
25.....530, 667
178.....2048
240.....530, 667
250.....530, 667, 2222
251.....530
270.....530, 667
275.....530, 667
285.....530, 667
**Proposed Rules:**
178.....2053
270.....1207
275.....1207
285.....1207
290.....1207
295.....1207

**28 CFR**

51.....486

**29 CFR**

553.....2012
1601.....42
2644.....256
2676.....1626
**Proposed Rules:**
1910.....1212
2520.....84

**30 CFR**

914.....2223
925.....534
**Proposed Rules:**
202.....1846, 1858
203.....1846, 1858
206.....1846, 1858
207.....1858
208.....2202
209.....2202
210.....1858
212.....1840
218.....687, 1471, 1840
241.....1858
761.....2421
784.....2421
914.....1339
935.....561

**31 CFR**

5.....43-51
18.....1451
51.....414
210.....2405
**Proposed Rules:**
18.....1473

**32 CFR**

**Proposed Rules:**
60a.....1340
230.....90
286.....802
856.....803

**33 CFR**

100.....2112
117.....670
165.....670, 2112
328.....1182
330.....1182
**Proposed Rules:**
100.....2237
110.....90
117.....1636
161.....806, 1691

**36 CFR**

702.....671
1232.....948

**38 CFR**

1.....1904
**Proposed Rules:**
13.....300

**39 CFR**

10.....673
**Proposed Rules:**
960.....301

**40 CFR**

52.....53, 54, 1183, 1454-1456, 1627, 1628, 1908, 2007, 2224
80.....257
81.....54
180.....1457, 1909, 2225
403.....1586
799.....1330
**Proposed Rules:**
52.....91, 1934, 1935
62.....1474
65.....562, 1936
81.....2117
85.....924
152.....2423
180.....563
228.....438
268.....2423
425.....2370
704.....107, 1583
721.....107, 1583
300.....2492
421.....2480

**41 CFR**

101-40.....387
201-24.....656

**42 CFR**
60....730
**Proposed Rules:**
110....1343
405....2430
416....2430
418....2430
421....2424
442....2430
482....2430

**43 CFR**
3400....415
3470....415
**Proposed Rules:**
426....304
3480....1840
**Public Land Orders:**
6636....1185

**44 CFR**
**Proposed Rules:**
6....304
61....112
67....690

**45 CFR**
30....260
201....273
304....273
801....416
2001....2384
**Proposed Rules:**
1180....691

**46 CFR**
160....1185
515....1629
**Proposed Rules:**
580....809, 1938

**47 CFR**
Ch. I....2226
1....273, 1630
2....417, 1331, 1458
15....417, 1458
22....417, 1458
25....417, 1458
43....1629
61....2411
65....273
73....57, 58, 275–277, 1630
76....1630
90....417, 1332
97....277, 278
**Proposed Rules:**
1....1939
31....1344
32....1344
67....2238
73....113–115, 305, 1345–1349
81....1349
97....2239

**48 CFR**
Ch. 7....2354
208....781
215....1914
525....58, 278
552....278, 1333
810....280, 1276
836....280, 1276
852....280, 1276
970....1602
**Proposed Rules:**
52....226
215....809
227....2082
252....2082

**49 CFR**
1....1916
193....674
544....59
1057....2412
1312....536
**Proposed Rules:**
219....2118
571....1474
1312....564

**50 CFR**
17....283, 675, 679, 781, 1459, 2227
23....1333
228....1197
604....1916
611....417, 422, 785, 1917, 2235
642....288, 2113
650....1462
653....1916
655....537
663....682, 790
671....1632
672....422, 785, 2412
675....422, 785, 2235
**Proposed Rules:**
17....306, 1494, 1497, 2239, 2242
20....1636, 1942
23....309
611....198
672....198
675....198
681....442

## LIST OF PUBLIC LAWS

**Note:** No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**